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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

STACIE RAY, BASIL ARGENTO, JANE DOE,  
AND ASHLEY BREDA,

Plaintiffs,

vs. Civil Action No.

2 : 18-CV-00272-MHW-CMV

AMY ACTON, IN HER OFFICIAL CAPACITY  
AS DIRECTOR OF THE OHIO DEPARTMENT  
OF HEALTH, et al.,

Defendants.

## Deposition of

RYAN GORTON, M.D.

October 8, 2019

10:15 a.m.

Taken at:

Calfee Halter & Griswold, LLP  
41 South High Street, Suite 1200  
Columbus, Ohio

Kimberly A. Kaz, RPR, Notary Public

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1 RYAN GORTON, M.D., of lawful age,  
2 called for examination, as provided by the  
3 Federal Rules of Civil Procedure, being by me  
4 first duly sworn, as hereinafter certified,  
5 deposed and said as follows:

6 EXAMINATION OF RYAN GORTON, M.D.

7 BY MR. BLAKE:

8 Q. Please state and spell your name  
9 for the record.

10 A. Ryan Nicholas Gorton. It's R-y-a-n  
11 N-i-c-h-o-l-a-s G-o-r-t-o-n.

12 Q. And are you here to testify  
13 regarding an expert opinion that you rendered  
14 in the case of Stacie Ray, et al., versus the  
15 Director of the Ohio Department of Health,  
16 et al.?

17 A. I am.

18 Q. What are the areas of expertise in  
19 which you are qualified to give expert  
20 testimony?

21 A. Transgender health care.

22 Q. Is that all?

23 A. I'm also an emergency medicine  
24 physician, but I don't think this case has to  
25 do with that, so...

1           Q.     So you -- you feel as if you're  
2 qualified as an expert in two areas,  
3 transgender health care and emergency medicine,  
4 but that as it relates to this case, only the  
5 transgender health care part is relevant; is  
6 that accurate?

7           A.     Yes.

8           Q.     By "transgender health care," what  
9 do you mean?

10          A.     The health care specific to  
11 transgender patients, which is usually divided  
12 into medical care, mental health care and  
13 surgical care as well as the primary care  
14 services that they need that are unrelated to  
15 that.

16          Q.     Okay. I assume you've been deposed  
17 a number of times, so I'm not going to spend a  
18 bunch of time going through sort of ground  
19 rules. You seem like you know how to take a  
20 deposition. I will just say that, you know, if  
21 at any time you need a break, as long as  
22 there's not a question pending, just let me  
23 know, and we'll take a break.

24               Also, if you don't understand a  
25 question, you know, you can let me know. If

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1       you answer a question, I'll assume you  
2       understood the question; is that fair?

3           A.     Yes.

4           Q.     Okay. Can you start with just  
5       describing briefly your -- your education and  
6       undergraduate?

7           A.     I got a Bachelor of Science in  
8       biochemistry from North Carolina State  
9       University, and then I got my medical degree  
10      from the University of North Carolina Chapel  
11      Hill School of Medicine.

12          Q.     And after obtaining your medical  
13      degree from Chapel Hill, did you enter a  
14      residency program?

15          A.     I did.

16          Q.     And where did you conduct your  
17      residency?

18          A.     Brooklyn, New York at Kings County  
19      Hospital.

20          Q.     And was that a general residency  
21      or, like, a specialty or --

22          A.     It was emergency medicine.

23          Q.     And how long was that residency?

24          A.     Four years.

25          Q.     And what is emergency medicine?

1           A.       The saying goes any person, any  
2       problem, any time. So the provision of,  
3       essentially, all emergency care that people  
4       might present to a hospital with.

5           Q.       So is this, like, the emergency  
6       room doctor when you walk in the emergency  
7       room, you're going to be seen by a physician at  
8       some point? Is that what -- is that what you  
9       do or what you trained as a resident to do?

10          A.       Correct.

11          Q.       After your residency, did you  
12       immediately begin practicing somewhere, did you  
13       go to a fellowship, or what did you do?

14          A.       I didn't do a fellowship, I started  
15       working at Saint Tammany Parish Hospital in  
16       Covington, Louisiana.

17          Q.       What year was that?

18          A.       2002.

19          Q.       And how long were you in Covington?

20          A.       About three years.

21          Q.       Where did you go after that?

22          A.       I moved to California and started  
23       practicing at Sutter Davis Hospital in Davis,  
24       California and Lyon-Martin Health Services,  
25       which, at the time was Lyon-Martin Women's

1           Health Services in San Francisco.

2           Q.       Is Davis, California near  
3           San Francisco?

4           A.       It's closer to Sacramento.

5           Q.       So you would commute between the  
6           two?

7           A.       Yes. I live in Davis and would go  
8           to San Francisco -- drive to San Francisco to  
9           work at Lyon-Martin.

10          Q.       And you started that in 2005?

11          A.       Yes.

12          Q.       Do you still work at any of those  
13           places or --

14          A.       I still work at both of those  
15           places.

16          Q.       Okay. Any other employment or --  
17           yeah. Any other employment since you started  
18           working at Sutter Davis and Lyon-Martin?

19          A.       No.

20          Q.       Other than your MD and your  
21           residency in emergency medicine, have you  
22           obtained any other medical certifications or  
23           licenses or specialties?

24          A.       I am board certified in emergency  
25           medicine and I am also certified with WPATH in

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1       their GEI program, which is something that I've  
2       added to my resume since I provided you one  
3       because I recently found out I passed the test.

4           Q.       Okay. So let's talk about the  
5       board certification in emergency medicine. Is  
6       that -- is that a license that you're required  
7       to maintain in order to practice medicine?

8           A.       In order to practice medicine, no,  
9       but a lot of emergency departments require that  
10      to be able to be employed there.

11          Q.       Are there, like, classes you have  
12       to take or coursework you have to complete  
13       within a year or two-year period in order to  
14       maintain that certification?

15          A.       You have to do a certain amount of  
16       continuing medical education, and ABEM, the  
17       American Board of Emergency Medicine, has this  
18       program they call ConCert, which is continuous  
19       certification, where you have to take a test.  
20       I can't tell you the exact number, but it's --  
21       I think it's, like, seven out of ten years  
22       between your test -- retesting for board  
23       certification, and then every tenth year, you  
24       have to sit for an exam.

25          Q.       And who -- who, then, approves the

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1 certification for the -- for the doctors that  
2 are board certified?

3 A. I'm not sure I understand the  
4 question.

5 Q. Well, what organization is in  
6 charge of issuing the licenses or the  
7 certifications?

8 A. The board certification, like I  
9 said, is ABEM, the American Board of Emergency  
10 Medicine.

11 Q. Okay. That's the actual entity  
12 that administers the curriculum or the  
13 requirements in order to get the certification?

14 A. Correct.

15 Q. Okay. And who is -- what is ABEM  
16 comprised of or who are ABEM's members?

17 A. Emergency medicine physicians in  
18 the U.S.

19 Q. What does it take to be -- well,  
20 does ABEM have, like, a board or panel? I  
21 mean, who sets the criteria?

22 A. I am honestly not certain of how  
23 they set the criteria, but they set the  
24 criteria for what is an emergency medicine  
25 residency and what it must contain, and they

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1       also set the criteria that you have to have  
2       completed emergency medicine residency before  
3       you sit for the boards, but I don't know how  
4       they decide what questions are on the exam or,  
5       like, specifics like that.

6           Q.     But it's -- in any event, it's  
7       other doctors who are -- this certification and  
8       who have received training as emergency  
9       medicine physicians, right?

10          A.     Sure.

11          Q.     Okay.   What is the WPATH GEI  
12       program?

13          A.     WPATH is the World Professional  
14       Association for Transgender Health, which is  
15       essentially the professional organization for,  
16       generally, medical and mental health providers  
17       who provide care for transgender patients.   And  
18       "GEI" stands for Global Education Initiative.  
19       And it's not like a board certification, but it  
20       is similar in that you have to have certain  
21       qualifications and a certain set of classes  
22       that you have to complete and then you sit for  
23       an exam.   And so it's an indication that WPATH  
24       thinks you have at least basic competency in  
25       providing transgender care.

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1           Q.       Who sets the coursework or exams or  
2        who creates the exams for the GEI program?

3           A.        Medical and mental health providers  
4        within WPATH. And I should add that I was  
5        actually allowed to grandfather in because of  
6        extensive experience since this is a relatively  
7        new program, so because of that, I was allowed  
8        just to sit for the exam, although I did  
9        actually sit in on the first course that they  
10      require for people who don't have an extensive  
11      amount of experience to become certified.

12          Q.        But you weren't required to take  
13      the full coursework before sitting for the  
14      exam, right?

15          A.        No, because of previous experience.  
16      And that's pretty typical for most of these  
17      things. Like, the American Board of Emergency  
18      Medicine originally allowed physicians who  
19      hadn't completed a residency but had extensive  
20      experience in emergency medicine just to sit  
21      for the exam.

22          Q.        And you said you just recently  
23      received word that you passed the GEI exam,  
24      right?

25          A.        Yes.

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1 Q. And when did you sit for that exam?

2 A. There was a period of time you  
3 could do it, and I think I did it almost near  
4 the end of that, and I think it was -- it was  
5 sometime in September because I remember doing  
6 it at the USPATH conference.

7 Q. So they offered the exam only  
8 certain times during the year?

9 A. There was a window during which you  
10 could take the exam. I don't know specific  
11 times that --

12 Q. What was that window?

13 A. It was at least a few weeks, but it  
14 might have been longer than that. I kind of  
15 just wrote the deadline down in my schedule and  
16 took it before the deadline.

17 Q. And that was, you think, in  
18 September?

19 A. I know it was in September. I  
20 couldn't tell you the exact date.

21 Q. This year?

22 A. This year, yes.

23 Q. Where did you go to take the exam?

24 A. It's an online exam, so I did it,  
25 actually, in my hotel room.

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1           Q.     So you took the exam from your  
2        hotel room while you were attending a WPATH  
3        conference or something?

4           A.     USPATH.

5           Q.     USPATH.

6                 How long did the exam take you to  
7        complete?

8                 A.     Probably four hours total, but I  
9        broke it up.

10               Q.     Do you recall approximately how  
11       many questions are on it?

12               A.     I don't recall the exact number,  
13       but I would say it's probably somewhere between  
14       20 and 60.

15               Q.     What about your exam for board  
16       certification in emergency medicine, how --  
17       where did you take that exam?

18               A.     The initial -- or the first time  
19       when you get board certified, there are  
20       actually two exams. There's a written one, and  
21       I took that somewhere in Texas, maybe  
22       Dallas/Fort Worth.

23               Q.     You had to go someplace where they  
24       were offering the exam?

25               A.     Yes. And then I took the oral

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1       exam. It was somewhere in the midwest, maybe  
2       Chicago. I'm not sure.

3           Q.     Did you go somewhere else to meet  
4       with folks and be examined orally?

5           A.     Exactly, for the oral exam. And  
6       then my one recertification, I just did at the  
7       testing center in California.

8           Q.     Again, some other place where they  
9       say here's a location you can go to recertify,  
10      right?

11          A.     It used to be they would have,  
12       essentially, a pencil-and-paper exam that  
13       everybody took and they -- there were a few  
14       places in the U.S. at certain times you could  
15       take it, but now it's an electronic exam, so  
16       you just find the closest testing center to  
17       you, and that's both for people initially  
18       certifying now for the written exam and for  
19       anybody who's recertifying.

20          Q.     Okay. So the process now, if you  
21       were to be coming out of med school at this  
22       point, you would take the written exam at one  
23       of these testing locations, remote testing  
24       locations around the country, and then you'd  
25       still have to go for your oral exam somewhere,

Page 17

1 right?

2 A. Correct.

3 Q. Is it always in the midwest, or  
4 that's just when it was there?

5 A. I have no idea.

6 Q. Okay. Do you recall how many  
7 questions were on the written exam?

8 A. Not even close. No idea.

9 Q. I mean, is it, like, 100, 200?

10 A. It took me a couple of hours to  
11 complete the recertification exam, so maybe a  
12 hundred. That's a total guess, though. It  
13 wasn't short, but it wasn't a two-day exam.

14 Q. How long did you spend preparing  
15 for the ABME [sic] exam?

16 A. ABEM. And do you mean the initial  
17 certification or recertification?

18 Q. The initial certification.

19 A. Honestly, not that much 'cause I  
20 was fresh out of residency. Maybe ten, 20  
21 hours.

22 Q. And how long did you spend  
23 preparing for the GEI exam?

24 A. Maybe a couple of hours, which was  
25 mostly just reviewing the WPATH standard of

1 care.

2 Q. All right. You mentioned that you  
3 didn't have to take any coursework prior to  
4 sitting for the GEI program, and that was based  
5 on your experience with transgender medicine;  
6 is that right?

7 A. Correct.

8 Q. So can you briefly describe what  
9 that experience has been since seems like about  
10 2005?

11 A. I've been continuously working at  
12 Lyon-Martin with a moderately large panel of  
13 trans patients, but then, also, I teach  
14 students and residents, I do presentations, I  
15 work on the -- on TransLine, the national  
16 clinical consultation service, and I also keep  
17 up to date with the trans literature, the trans  
18 medical literature.

19 Q. So do you have trans patients at  
20 Lyon-Martin and Sutter Davis?

21 A. In emergency medicine, you don't  
22 have patients that you follow longitudinally,  
23 but, yes, I've seen a number of trans patients  
24 at Sutter Davis.

25 Q. Is your work at Lyon-Martin

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1           emergency medicine as well?

2           A.       No. It's primary care, so I see  
3           patients repeatedly over a course of time.

4           Q.       Okay. So primary care, that's at  
5           Lyon-Martin, and then you're still maintaining  
6           your emergency medicine practice at Sutter  
7           Davis; is that accurate?

8           A.       Correct.

9           Q.       And so you have seen trans patients  
10          at Sutter Davis, but that's just because you  
11          take whomever's having emergency, and some of  
12          those folks happen to be trans, right?

13          A.       Correct.

14          Q.       But as a primary care physician at  
15          Lyon-Martin, trans patients come in and you  
16          treat them as their primary care physician,  
17          right?

18          A.       Correct.

19          Q.       Okay. You said it used to be known  
20          as women's health, Lyon-Martin Women's Health.  
21          It's no longer called that?

22          A.       Lyon-Martin was originally a for  
23          us, by us clinic for lesbian and bisexual  
24          women, and it was either late '70s or early  
25          '80s that it was founded. And then in the

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1       '90s, they started providing transgender care,  
2       and somewhere around 2007 or '8 or maybe even  
3       2009, the clinic changed the name from  
4       Lyon-Martin Women's Health Services to  
5       Lyon-Martin Health Services, recognizing that  
6       we have a lot of patients who weren't women,  
7       they were transgender men and transgender  
8       women.

9           Q.     Okay. So you provide care -- that  
10      was going to be my next question. Although  
11      Lyon-Martin was originally a women's health  
12      clinic, when it comes to the transgendered  
13      patient, you treat both transgendered men and  
14      transgendered women?

15           A.     Correct.

16           Q.     Got it.

17                   So it dropped -- at this point, has  
18      dropped the "women's health" part of their  
19      name?

20           A.     To be more inclusive, yes.

21           Q.     You say you teach students and  
22      residents. Is Lyon-Martin a teaching hospital?

23           A.     It's not a hospital, it's a clinic,  
24      but, yes, we do have students and residents all  
25      the time.

1           Q.        You get them on, like, some sort of  
2 rotation or something?

3           A.        Yes.

4           Q.        Okay. As part of their residency,  
5 some of those folks come out to Lyon-Martin and  
6 work?

7           A.        Yes, although it's more students  
8 than residents.

9           Q.        Okay. And when you mean students,  
10 you mean, like, medical students?

11          A.        Medical students, nurse  
12 practitioner students, physician's assistant  
13 students.

14          Q.        Okay. And at Sutter Davis, is that  
15 a teaching hospital?

16          A.        It has a family practice residency,  
17 but that's it.

18          Q.        Okay. And you're not involved in  
19 that?

20          A.        I am because the family practice  
21 residents, as part of their residency, do do  
22 rotations in the emergency department, but it's  
23 an occasional thing.

24          Q.        It's a very small part of what you  
25 do?

1           A.     Correct.

2           Q.     When you were referencing your  
3     experience with trans medicine and teaching  
4     students and residents, you were talking about  
5     what you do at Lyon-Martin, right?

6           A.     Yes. But I actually do, like, once  
7     a year, maybe once every two years, 'cause it's  
8     a three-year residency, do talk on trans  
9     medicine for the family practice residents at  
10    Sutter Davis just 'cause I have that expertise  
11    and they ask me to do it.

12          Q.     So the Sutter Davis residents, in  
13     that family practice, as part of their  
14     curriculum, at some point during their stint  
15     there, they ask you to come and talk to them  
16     about some of these transgender issues?

17          A.     Correct.

18          Q.     What is TransLine?

19          A.     It's a national clinical  
20     consultation service that essentially provides  
21     a way for health care providers to ask  
22     questions of health care providers who are more  
23     experienced in transgender care about their  
24     patients. So if you have, say, a family  
25     practice doctor in rural Iowa who's never had a

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1       trans patient and they have one and they have  
2       questions, they can call -- or, not call, they  
3       can submit an electronic ticket, and most of  
4       the time, they're answered by e-mail.  
5       Occasionally, we call people and have a  
6       conversation.

7                 Q.        Okay. So this is, like, a  
8       doctor-to-doctor, medical provider-to-medical  
9       provider interface for folks who don't have a  
10      lot of experience with this issue to reach out  
11      to individuals who have experience with  
12      transgender issues, right?

13               A.        Mostly. Though, occasionally, we  
14      do get some very experienced providers who ask  
15      very tough questions that takes a while to  
16      answer. But mostly it's providers with maybe  
17      not completely inexperience, but they have a  
18      patient who has something they've never seen  
19      before. They may have ten trans patients, but  
20      this is just a complex case.

21               Q.        Right. It's a resource that  
22      medical providers have available to them?

23               A.        Correct.

24               Q.        And what's your involvement with  
25      TransLine?

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1           A.     I'm the lead clinician and I also  
2 answer questions. It's a rotation. There's a  
3 number of different LGBT health care centers  
4 that staff it, and so I do our portion of  
5 answering questions, and then I also am a  
6 resource for some of the other providers. So a  
7 provider who's answering questions might not be  
8 able to answer something, so it gets bounced to  
9 me.

10           Q.     Okay. So you're like a resource  
11 for the resource sometimes; is that fair?

12           A.     Sometimes. Most of the time,  
13 it's -- they don't have to ask anything. And,  
14 I mean, honestly, I sometimes have to seek  
15 outside assistance if it's really super  
16 complicated.

17           Q.     From other people within the  
18 TransLine network?

19           A.     Yes, or occasionally consultants  
20 that I know.

21           Q.     Okay. What is a lead clinician,  
22 what's the significance of that title?

23           A.     I think one is that I'm the second  
24 line if there's a question that's not readily  
25 answered, but also, I work with JM Jaffe,

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1       that's J-a-f-f-e, and JM is the -- I'm not sure  
2       what their title is. I think it's manager, but  
3       they're the one who sets the schedules and  
4       sends people the tickets to answer and sort of  
5       runs TransLine, and they and I go over data.  
6       Actually, at USPATH, we presented one paper  
7       about TransLine unitization, so some meta level  
8       stuff.

9           Q.       So JM Jaffe, that's sort of the  
10      administrative arm of TransLine, and you do  
11      some coordination with them?

12           A.       Correct.

13           Q.       Okay. Approximately how many times  
14      have you been an expert witness in the last ten  
15      years?

16           A.       Well, what do you define as expert  
17      witness? Like, what part of it?

18           Q.       Sure. Any time that you've been  
19      retained by an attorney or party to serve as an  
20      expert witness, whether or not you rendered an  
21      opinion or sat for a deposition or examined at  
22      trial.

23           A.       Gotcha. So probably eight to ten  
24      times in the past ten years. It could be a  
25      little more. Maybe call it eight to 12.

1           Q.       What types of matters have -- have  
2        you been retained in as an expert witness those  
3        eight to 12 times?

4           A.       They're all transgender cases. I  
5        haven't been an emergency medicine expert  
6        witness.

7           Q.       Have you ever been a party to a  
8        lawsuit?

9           A.       Have I ever been sued?

10          Q.       Yes.

11          A.       Yes.

12          Q.       Or sued, or you're a plaintiff,  
13        right, you're the one --

14          A.       Never been a plaintiff, but I've  
15        been sued.

16          Q.       And the times -- is there more than  
17        once?

18          A.       Yes.

19          Q.       Okay. How many times?

20          A.       Five, I think.

21          Q.       Were those -- I'm assuming those  
22        were all related to your medical practice?

23          A.       Yes.

24          Q.       Were those medical malpractice  
25        cases?

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1 A. Yes.

2 Q. You were a defendant?

3 A. Yes.

4 Q. Were any of those related to your  
5 work as a provider of transgender medicine?

6 A. One.

7 Q. When was that case?

8 A. Couple of years ago.

9 Q. So that was a patient that you were  
10 seeing at Lyon?

11 A. At Lyon-Martin, yes.

12 Q. What were the allegations in that  
13 matter?

14 MS. INGELHART: Objection. To the  
15 extent you can answer without waiving  
16 privilege, you can answer.

17 THE WITNESS: So it was a patient  
18 who sued the clinic and me for being referred  
19 for sex reassignment surgery, though I don't  
20 believe they sued the surgeon. I was dropped  
21 from the case, but I believe the clinic  
22 settled.

23 Q. Did the plaintiff claim that they  
24 should not have been referred for sex  
25 reassignment surgery?

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1           A.     I think there may be a  
2 nondisclosure agreement, I apologize, that I'm  
3 not entirely sure, but I think there was, so  
4 I'm not sure how much I can actually say.

5           Q.     Do you recall the name of the  
6 plaintiff or the name of the case?

7               MS. INGELHART: Same objection as  
8 before. You can answer.

9               THE WITNESS: Yes. I don't know if  
10 it violates HIPAA to say that. I mean, I'm  
11 just not sure.

12          Q.     Yeah. Well, the case should be  
13 public record. I mean, it was filed. It was a  
14 complaint.

15          A.     Okay.

16          Q.     And, again, if you're under an NDA  
17 which says the only thing you can say if asked  
18 about this thing is I was dropped from the case  
19 and I believe the hospital settled, the clinic  
settled, so be it. But, you know, the name of  
the -- the name of the case is public record.

22               MS. INGELHART: Objection. Unless  
23 it's a Jane Doe.

24               MR. BLAKE: That's fine.

25               THE WITNESS: It wasn't a Jane Doe.

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1       It was -- the last name was Page, P-a-g-e, and  
2       I'm not sure what name the first name they  
3       used, but it was -- "J" was the initial.

4           Q.       But it would be Page versus --

5           A.       Lyon-Martin and me.

6           Q.       Yeah. And you said a couple years  
7       ago, right?

8           A.       Yeah. It feels like a couple of  
9       years ago.

10          Q.       Okay. So maybe filed in 2016, '17  
11       or '18?

12          A.       I don't think it would have been as  
13       late as '18.

14          Q.       Okay. So these eight to 12  
15       transgendered cases that you've been an expert  
16       witness is, what, generally, are the issues  
17       involved?

18          A.       I would say at least half are  
19       transgender patients in prison who are suing to  
20       get medically necessary care.

21          Q.       And what is that? That's some  
22       amount of, like, reassignment, either it's  
23       hormone treatment or a medical intervention of  
24       some other kind; is that accurate?

25          A.       And social transition issues.

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1           Q.        Okay.  Do you consider social  
2       transition part of medical treatment?

3           A.        Yes.

4           Q.        And was the issue that the prison  
5       was not providing the medically necessary  
6       treatment and it was your expert testimony that  
7       this is medically necessary and so it needs to  
8       be provided?

9           A.        Not all those cases I testified in,  
10      but, yes, in the cases where I did.

11          Q.        That was your opinion in the cases  
12      where you testified, and had you testified,  
13      that would have been your opinion?

14          A.        I can't tell you what my opinion  
15      would have been in the other cases because I  
16      never got there, so....

17          Q.        Have you ever been retained in a  
18      prison case, transgendered prison case where  
19      you didn't find that the treatment was  
20      medically necessary?

21          A.        Like I said, I didn't render an  
22      opinion in a couple of those, so I can't tell  
23      you what my opinion would have been, but in the  
24      cases where I did render an opinion, in all  
25      those, it was pretty obvious that the person

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1       needed medically necessary care.

2           Q.     All right. So the other half were  
3       not prison cases. I assume they fall into  
4       probably several categories. Can you tell me  
5       what those categories are?

6           A.     Sure. So this case is one of them.

7           Q.     This is an identity document case?

8           A.     Correct.

9           Q.     Any other identity document cases  
10      besides this one?

11        A.     One other.

12        Q.     Okay. What other types of cases?

13        A.     There was one case where I -- or  
14        where the defendant had -- was a physician who  
15        had treated a transgender patient who then  
16        committed suicide, and the state was trying to  
17        take away his license to practice.

18        Q.     The patient committed suicide?

19        A.     Correct.

20        Q.     Okay. Which party in that case  
21      retained you?

22        A.     The physicians.

23        Q.     Okay.

24        A.     Not the state.

25        Q.     So this was the medical board of

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1       whatever state this occurred in was trying to  
2       take away the physician's license, right?

3           A.     Correct.

4           Q.     And were you retained as an expert  
5       in that case to opine on what the standard of  
6       care was for that physician when they were  
7       rendering these medical services to the  
8       transgendered patient?

9           A.     Correct.

10          Q.     And what did you conclude in that  
11       case?

12          A.     That testosterone treatment for  
13       transgender men is recognized and appropriate,  
14       and while providing treatment for transgender  
15       patients diminishes their suicide risk, it  
16       doesn't eliminate it, so I don't think  
17       providing testosterone was the wrong thing to  
18       do.

19          Q.     Okay. Any other transgendered  
20       cases?

21          A.     I may have signed on to a couple of  
22       Amicus briefs. Gavin Graham, I think, was one.

23          Q.     That's a bathroom case, right?

24          A.     I believe so. Well, facilities.

25          Q.     Facilities case. Yeah, there was

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1 locker room or something, right?

2 A. Correct.

3 Q. Okay. Any other that you -- any  
4 others that you can recall?

5 A. In the last ten years -- oh,  
6 actually, yeah. Zucker V. Cruz in New York,  
7 which was sued on behalf of New York recipients  
8 of Medicaid because the state wasn't  
9 providing -- or wasn't paying for medically  
10 necessary treatment for transgender Medicaid  
11 recipients.

12 Q. I assume Gavin V. Grimm you signed  
13 on to an Amicus brief on the plaintiff's side,  
14 right?

15 A. Yes.

16 Q. And same goes for Zucker V. Cruz,  
17 you -- you were retained as an expert witness  
18 for the plaintiff suing the state to recognize  
19 that Medicaid should pay for these services,  
20 right?

21 A. Plaintiffs, yes. There's more than  
22 one plaintiff.

23 Q. Oh, plaintiffs. Sorry.

24 Okay. And the identity document  
25 case, obviously, you're an expert witness for

1 plaintiff, right?

2 A. In this case, yes.

3 Q. And then in the other identity  
4 document case, you were an expert witness for  
5 plaintiff, right?

6 A. Correct.

7 Q. Do you remember what type of  
8 identity document was an issue in that other  
9 identity document case?

10 A. Well, it's still ongoing. It's  
11 driver's license.

12 Q. Driver's license. What's the issue  
13 in that driver's license case?

14 A. That the state won't provide  
15 amended or correct driver's licenses to  
16 patients who are transgender.

17 Q. What state is that in?

18 A. Alabama. And I don't think it's a  
19 matter that they won't, it's -- they won't  
20 entirely, it's just that they have a surgical  
21 requirement.

22 Q. Before they change the driver's  
23 license?

24 A. Correct.

25 Q. Is this the only birth certificate

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1 case you've been involved in?

2 A. I think so, yes.

3 Q. Other than the physician defendant  
4 that you referenced where you testified that  
5 the physician didn't violate the standard of  
6 care or at least you opine that the physician  
7 didn't violate the standard of care, have you  
8 represented defendants in any other matters?

9 A. Physician defendants, no.

10 Q. Any other -- any other defendant?

11 A. Not that I can remember.

12 Q. Okay. So all the other times  
13 you've been retained as an expert witness, it's  
14 been on behalf of plaintiff or plaintiffs?

15 A. I think so. I'm not a lawyer, but  
16 I think that's the case, yes.

17 Q. Have you ever been retained as an  
18 expert witness for any state, government or  
19 agency or anything like that?

20 A. I haven't been asked, so no.

21 Q. Okay.

22 MS. INGELHART: Excuse me. May we  
23 take a quick break?

24 MR. BLAKE: Sure.

25 (Recess taken.)

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1 - - - -  
2 (Thereupon, Deposition Exhibit 19,  
3 Expert Report, was marked for  
4 purposes of identification.)  
5 - - - -

6 Q. You've just been handed what has  
7 been marked as Defendants' Exhibit 19. And  
8 this is a copy of your expert report. Do you  
9 recognize this document?

10 A. I do.

11 Q. We'll get to this in a little bit,  
12 but in the back, I've also attached Exhibits A  
13 and B to your report, which are your CV and  
14 bibliography. Do those appear to be true and  
15 accurate copies?

16 A. Again, I've added a couple of  
17 things to my CV, but for the most part, yes.

18 Q. All right. Turn to Paragraph 4 on  
19 the second page of the report. You listed a  
20 few cases where you've testified as an expert  
21 at trial or by deposition. You've listed  
22 Corbitt V. Taylor, Edmo V. Idaho Department of  
23 Corrections, Keohane V. Jones and Cruz V.  
24 Zucker. Do you see that?

25 A. I do.

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1           Q.     Are those -- those are the only  
2 cases you've testified as an expert witness in  
3 the last four years?

4           A.     Yes, that got to the point of  
5 deposition or testimony.

6                 - - - - -

7                 (Thereupon, Deposition Exhibit 20,  
8 Declaration, was marked for purposes  
9 of identification.)

10                 - - - - -

11           Q.     Just handed you what's been marked  
12 as Defendants' 20. If you turn to the second  
13 page, it is an Eastern District of Wisconsin  
14 case, Ashton Whitaker V. Kenosha Unified School  
15 District. Do you see that?

16           A.     I do.

17           Q.     And it's a declaration that you've?  
18 -- of Dr. R. Nicholas Gorton, M.D. That's you,  
19 right?

20           A.     Correct.

21           Q.     And it looks like it's a 2016 case,  
22 and this declaration was filed on  
23 August 15th, 2016, right?

24           A.     Yes.

25           Q.     Is there a reason why this wasn't

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1        included in Paragraph 4?

2            A.        I don't think I did a deposition on  
3        this or testimony at trial, and also, I did  
4        forget about this, so...

5            Q.        Okay. So no deposition or  
6        testimony at trial, but there was a  
7        declaration, right?

8            A.        Yes.

9            Q.        Okay. You can put that aside.

10            Corbitt V. Taylor, is that a case  
11        that we talked about already?

12            A.        That's one of the ongoing ones,  
13        yes.

14            Q.        Okay. Is that the driver's license  
15        case?

16            A.        Correct.

17            Q.        And Edmo V. Idaho Department of  
18        Corrections, I assume that's one of the prison  
19        cases?

20            A.        Yes.

21            Q.        Keohane V. Jones?

22            A.        That was a prison case in Florida.

23            Q.        Also a prison case.

24            And Cruz V. Zucker, you mentioned  
25        that one. That's the Medicaid case, right?

1           A.     Correct.

2           Q.     Is the driver's license case the  
3     only ongoing case or are some of these others  
4     still ongoing?

5           A.     The other ones aren't ongoing.

6           Q.     Okay. And what about Whitaker,  
7     Defendants' Exhibit 20, is that one ongoing?

8           A.     I honestly don't even know.

9           Q.     Okay. Have you ever served as an  
10    expert witness for Stacie Ray or any of the  
11    other plaintiffs?

12          A.     No.

13          Q.     Have you ever served as an expert  
14    witness for opposing counsel seated next to  
15    you?

16          A.     For their organization or for these  
17    two people?

18          Q.     For them individually.

19          A.     No.

20          Q.     Okay. Have you ever served as an  
21    expert witness for attorneys from Lambda Legal?

22          A.     Yes.

23          Q.     Okay. In what cases have you  
24    served as an expert witness for Lambda Legal?

25          A.     Great question. Let me restate

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1       that. I do work with Lambda Legal, and a lot  
2       of these cases have, like, four co-counsels, so  
3       I think one of them might have -- I can't tell  
4       you specifically, but I do work with Lambda  
5       Legal.

6           Q.     So you think one or two times,  
7       you've been an expert witness for cases where  
8       Lambda Legal is involved?

9           A.     I believe so, yeah.

10          Q.     Do you know which cases?

11          A.     I don't.

12          Q.     Other than as an expert witness, do  
13       you work with or for Lambda Legal?

14          A.     I've done a few, like -- like, I  
15       reviewed a couple of studies for them and gave  
16       them my opinion on it, but it wasn't for a  
17       specific case.

18          Q.     So just some, like, very basic  
19       consulting work?

20          A.     Exactly.

21          Q.     But as far as you know, that wasn't  
22       in connection with any cases?

23          A.     Not that I know of.

24          Q.     Do you recall what studies they  
25       asked you to review?

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1           A.       The Hayes report was one that I can  
2 remember.

3           Q.       Hayes report?

4           A.       Yes, H-a-y-e-s.

5           Q.       Any others?

6           A.       That I can quote off the top of my  
7 head, no.

8           Q.       What is the Hayes report?

9           A.       Hayes is a private company that,  
10 for -- usually, clients that are large insurers  
11 or other health care payors, analyzes medical  
12 technologies or treatments, and this was their  
13 analysis of transgender health care. I can't  
14 tell you the exact title of the report, but it  
15 was something like that.

16          Q.       Do you know why you were asked to  
17 review the Hayes report?

18          A.       The original one that I reviewed  
19 for Lambda Legal, I think it was because it was  
20 being used by payors to deny care, and then  
21 also an updated version was utilized in Cruz v.  
22 Zucker, but that analysis, I didn't do with  
23 Lambda Legal, it was with the attorneys in Cruz  
24 v. Zucker.

25          Q.       And so were you asked to criticize

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1 or refute aspects of the Hayes report?

2 A. That came up in Cruz V. Zucker.

3 There were a lot of things that they said -- or  
4 that Hayes said in the Hayes report that I  
5 think ran counter to the standard of medical  
6 treatment for trans patients, and so I had  
7 opinions based on that. The original Hayes  
8 report, they just sort of said tell us what you  
9 think about this, and I don't know if it was --  
10 I think it was probably being used to deny care  
11 for patients, but I'm not exactly sure 'cause  
12 this was, like, more than ten years ago.

13 Q. Oh, it was a long time ago?

14 A. Yeah. It was, like, 2006 or '7,  
15 something like that.

16 Q. Pre-iPhone?

17 A. Exactly. Exactly.

18 Q. Dark ages.

19 I can probably guess, but what was  
20 your opinion about the Hayes report?

21 A. The original One?

22 Q. Yes.

23 A. Was horrible and plagiarized.

24 Q. The Hayes report was horrible and  
25 plagiarized?

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1           A.     Yeah. It had a tremendous amount  
2       of systematic bias, and I figured out by  
3       repeating their described search procedure that  
4       the articles that they said they found, they  
5       wouldn't have found that way, but those were  
6       the same articles that were found by another  
7       review that they cited, so...

8           Q.     So they -- they cited -- they found  
9       one source that compiled a bunch of other  
10      sources, and you think that the Hayes report  
11      just basically -- well, you said plagiarized,  
12      but copied, right, copied that research?

13          A.     I think they just used the articles  
14      that the other report used because, like I  
15      said, if you repeat their search strategy as  
16      described in the paper, you don't get two of  
17      the articles that they said they found with  
18      that search strategy, and there were also a  
19      couple of articles that they should have found  
20      with that search strategy that were published  
21      after the prior report was published, and so  
22      two plus two usually equals four.

23          Q.     And how does -- how did that  
24      methodology of collecting resources undermine  
25      any of the opinions in the Hayes report?

1           A.     It certainly makes you think about  
2     their other methodologies. So once you have  
3     the papers that you're going to review, you  
4     analyze them in a systematic way if you're  
5     going a systemic review. And, in addition, in  
6     the rest of the report, there was a systemic  
7     bias, so papers that showed positive results,  
8     they minimized and they also just completely  
9     misinterpreted a couple of other studies. It  
10    was not very well done.

11           Q.     So the original Hayes report, in  
12    your opinion, exhibited systemic bias and/or  
13    misinterpreted several studies?

14           A.     Yes.

15           Q.     By the time you were hired as an  
16    expert in Cruz V. Zucker, had the Hayes report  
17    corrected what you understood to be errors?

18           A.     Some of them, but not all of them,  
19    and there was still a tremendous amount of  
20    systemic bias.

21           Q.     But you would agree, then, that  
22    systemic bias is something to be avoided if  
23    you're trying to create a valid study or report  
24    of transgendered issues or, really, any issue,  
25    medical issue, right?

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1           A.        You want to avoid all bias, but  
2        people are human beings, so it's never possible  
3        to be completely unbiased, but there are  
4        well-known ways to reduce or eliminate it.

5           Q.        Such as what? How do you eliminate  
6        or avoid bias in a study?

7           A.        So in something like the Hayes  
8        report where you are looking at a whole bunch  
9        of studies and doing a systemic review,  
10      blinding people to who the authors were, having  
11      multiple reviewers, also one thing that's  
12      really important is to list the authors of the  
13      paper and have the authors list their -- or  
14      things that might bias them like I'm paid by  
15      the drug company that manufactures the drug  
16      that we're talking about. And, for example,  
17      the Hayes report, no authors listed and no  
18      biases listed, though if you go to their  
19      website, most, if not all of their clients are  
20      health care payors, which is a pretty  
21      tremendous bias that should be declared, but  
22      wasn't. And you can't tell the bias of the  
23      individual authors because there were none  
24      listed.

25           Q.        So at least, I mean, is that

1 blinding the authors, then?

2 A. No. Blinding the authors would be  
3 like showing you a paper and not knowing who  
4 wrote it so you can't be like, oh, well, I know  
5 Steve. He's not really good. And, also, too,  
6 having multiple people review the same article,  
7 so if I think it's positive in this way, you  
8 think it's positive in this way, but a third  
9 reviewer says, no, I think there's a  
10 limitation, then you -- you know, you come to  
11 consensus about what you think it ultimately  
12 is.

13 Q. So if the Hayes report didn't list  
14 their authors, how is that not -- how is that  
15 not blinding the authors?

16 A. No. I'm not -- I was giving two  
17 different examples.

18 Q. Okay. The problem with the Hayes  
19 report isn't the blinding problem, the problem  
20 with the Hayes report is that the potential  
21 conflicts of the authors weren't disclosed?

22 A. Well, there's many problems. And,  
23 for example, you can't tell a lot of what they  
24 did because they just don't say it in the paper  
25 like a normal systemic review would.

1           Q.       Have you ever served as an expert  
2 witness for the ACLU?

3           A.       Yes.

4           Q.       Approximately how many times?

5           A.       This case, the Alabama case, maybe  
6 they were co-counsel for Cruz V. Zucker. I'm  
7 not sure.

8           Q.       Okay.

9           A.       I know one lawyer that I worked  
10 with on Cruz V. Zucker is now an ACLU lawyer,  
11 but I don't know if he was at the time, so...

12          Q.       A few times?

13          A.       That's fair.

14          Q.       And have you ever done any other  
15 non-expert witness consulting or work with the  
16 ACLU?

17          A.       Probably because I may just get  
18 random e-mails from people saying what do you  
19 think about this, so I'm on a number of  
20 Rolodexes.

21          Q.       So you think from time to time, you  
22 just receive -- people from the ACLU reach out  
23 and try to get your thoughts on one issue or  
24 another?

25          A.       That's fair.

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1 Q. Is it generally transgender related  
2 issues?

3 A. Yeah. That's --

4 Q. Exclusively?

5 A. I'm not sure about exclusively, but  
6 that's my area of expertise, so...

7 Q. There's no one sending you a  
8 question about free speech or something like  
9 that, right?

10 A. No.

11 Q. Okay. Have you ever served as an  
12 expert witness for attorneys with any other  
13 group like Lambda Legal or the ACLU?

14 A. Sylvia Rivera Law Project, the  
15 Legal Aid Society, many, many years ago, the  
16 Northwest Justice Project, and I've not done a  
17 legal case that I know of, but I've done some  
18 work with NCLR around policies for trans  
19 athletes to compete but not, like, a lawsuit.

20 Q. What is Sylvia Rivera?

21 A. Sylvia Rivera is a law project in  
22 New York that focuses on transgender people,  
23 especially those who are disenfranchised by  
24 race or poverty.

25 Q. What was your involvement with

1                   Sylvia Rivera?

2                   A.       Again, a lot of the kind of  
3                   curbsiding, hey, what do you think about this.  
4                   There was one case, again, many years ago,  
5                   where there was a prisoner in New York and they  
6                   were going to force her to have her head shaved  
7                   when she entered prison because they were  
8                   putting her in a male prison. The Cruz V.  
9                   Zucker case is the one that I'm not entirely  
10                  sure who the counsel was for because it was  
11                  somebody who had worked at SRLP and now works  
12                  for the ACLU, and so I don't know if that was  
13                  with them or not. I know the person, but not  
14                  who they were working for.

15                  Q.       Wouldn't surprise you if Sylvia  
16                  Rivera, that organization, was involved in the  
17                  Cruz case?

18                  A.       No, it wouldn't surprise me.

19                  Q.       And then Legal Aid, what kind of  
20                  work have you done with them?

21                  A.       I think they were involved in Cruz  
22                  V. Zucker.

23                  Q.       Is that all?

24                  A.       I think so.

25                  Q.       The Northwest Justice Project, what

1       is that organization?

2           A.       That's a law organization in  
3       Washington state that I worked with on two  
4       cases for transgender patients who were being  
5       denied payment for medically necessary care  
6       under the state Medicaid agency.

7           Q.       Those were two Medicaid cases?

8           A.       Yes. And I -- I don't know if it  
9       was considered testimony, but I phoned in and  
10      talked to an administrative law judge, so I  
11      think it was testimony, but it was -- it wasn't  
12      I went to a physical court.

13          Q.       Any other work for the Northwest  
14      Justice Project?

15          A.       Well, those were -- there were two  
16      cases, but that was it.

17          Q.       Okay. And then NCLR, you said you  
18      did some work regarding policies for trans  
19      athletes. Could you tell me more about that?

20          A.       I've gone with them to talk to --  
21      for example, I went with them to talk to the  
22      California Boxing Board. I don't know if  
23      that's the exact name, but the -- the  
24      California state organization that regulates  
25      boxing on behalf of a trans person who wanted

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1 to compete. I went with them to talk to a  
2 women's roller derby league once about changing  
3 their policy, and I also worked with them in  
4 providing some medical background and sort of  
5 technical assistance when they were working  
6 with the NCAA to draft their trans athlete  
7 policies, and that was, like, in 2011, I think.  
8 And I'm actually working with them now because  
9 those are going to be reviewed, but that's in  
10 process.

11 Q. Okay. Other than that one case you  
12 mentioned where you were representing or the  
13 expert witness for a physician defendant,  
14 have -- has all of your work as a medicolegal  
15 consultant or expert been on behalf of advocacy  
16 groups like Lambda Legal, Northwest Justice  
17 Project, ACLU, et cetera?

18 A. There -- I've worked with legal  
19 groups, and like I said, also NCLR on more of  
20 a -- not a lawsuit thing, but just technical  
21 assistance to help them and to help the NCAA  
22 write their policy. I should also add, I've  
23 actually worked with the Transgender Law Center  
24 too, though not in the past few years.

25 Q. Is that another group like Lambda

1 Legal?

2 A. It's a California-based  
3 organization that, many years ago, was more of  
4 a direct services organization, and now they  
5 don't do that as much, and so when they were  
6 doing direct services, I did more work with  
7 them on behalf of the individual clients, like  
8 not going to court, but talking to some third  
9 party that had a sex-segregated facility and  
10 saying, gee, this is why you should let trans  
11 women use the women's facilities and trans men  
12 use the men's facilities.

13 Q. What is a direct services  
14 organization? What do you mean by that?

15 A. Instead of -- like, the ACLU  
16 provides services to clients, but they're not  
17 providing more mundane services, so they worked  
18 with a lot of people just to get their driver's  
19 license changed in California. Even though  
20 it's a pretty easy process to do that, some  
21 people, because they lack experience or  
22 resources, find that difficult, so they would  
23 work with a lot more individual clients.

24 Q. Okay. You've mentioned a few cases  
25 where you served as an expert witness involving

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1 challenges to laws or regulations by the  
2 government, right?

3 A. I'm not sure what you --

4 Q. Well, the driver's license case,  
5 that's a law or regulation prohibiting people  
6 in Alabama from having the sex identifier on  
7 their driver's license from changing unless  
8 they had a certain amount of surgery, right?

9 A. Correct.

10 Q. In this case, it's a challenge to a  
11 law or regulation involving when the sex  
12 identifier on a birth certificate be changed,  
13 right?

14 MS. INGELHART: Objection. Calls  
15 for a legal conclusion, but you can answer.

16 THE WITNESS: Yeah. My question  
17 was did you mean the Medicaid cases and the  
18 payor cases? 'Cause those are agencies, but  
19 they're not --

20 Q. It's a regulation promulgated by a  
21 governmental agency?

22 MS. INGELHART: Again, objection.

23 Q. If you don't know, you don't know.

24 A. I think a lot of those cases  
25 were -- like, the prison cases, they have

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1       policies in the prison that say we don't do X.

2           Q.     Right. And that's -- you know, the  
3       policy of the prison itself or maybe the Bureau  
4       of Prisons or whatever the equivalent is in  
5       whatever state you're testifying in, right?

6           A.     Exactly.

7           Q.     In any matter that you've been  
8       retained as an expert witness involving a  
9       challenge to a law, regulation or governmental  
10      policy, have you ever concluded that such law,  
11      regulation or policy was valid?

12           MS. INGELHART: Objection. Calls  
13      for a legal conclusion. You can answer.

14           THE WITNESS: I generally think  
15      about it as the particular medical needs of the  
16      plaintiffs in these cases, and so I'm not so  
17      much saying this isn't valid, I'm saying for  
18      these people, this is not appropriate. It's  
19      not what is the standard of medical treatment  
20      to transgender patients.

21           Q.     So you -- you don't -- you haven't  
22      offered an opinion on the validity of any law,  
23      regulation or policy?

24           MS. INGELHART: Objection. You can  
25      answer.

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1                   THE WITNESS: I don't -- I don't  
2 really know if you would consider what I've  
3 said in those cases to be a challenge to it,  
4 but if, for example, there's a law that -- or  
5 there is a policy that says transgender people  
6 shouldn't, in any circumstances, get surgery,  
7 then, yeah, I think that's wrong because in  
8 many cases, transgender people do need surgery.  
9 As far as saying this should be changed, how it  
10 should be changed, my -- my point is usually  
11 whether or not something is medically  
12 appropriate. I'm not a lawyer, so...

13                  Q. You're not looking at the  
14 constitutionality of something or whether the  
15 government has a right to do a thing, your  
16 testimony or opinion has always been regarding  
17 whether or not the outcome of the policy or law  
18 is medically appropriate for the plaintiff,  
19 right?

20                  A. I think that's fair, yeah.

21                  Q. And I don't want to try to confuse  
22 you. In the Alabama case, for example,  
23 there -- they don't allow transgendered  
24 individuals to change their driver's license  
25 unless they've had a certain amount of surgery,

1 you've already testified to that. Your opinion  
2 isn't that that law is somehow unconstitutional  
3 or illegal, it's that for those plaintiffs,  
4 it's medically appropriate for them to change  
5 their driver's license without that amount of  
6 surgery, right?

7 MS. INGELHART: Objection. Calls  
8 for a legal conclusion. You can answer.

9 THE WITNESS: I couldn't tell you  
10 if something's constitutional or not. I mean,  
11 I took civics in high school and a few classes  
12 in college and history, but that's not my area  
13 of expertise. But I can say that for  
14 individual patients or for the transgender  
15 community at large, something is inappropriate.  
16 For example, in the Alabama, there might be  
17 people who have medical contraindications to  
18 surgery, and saying you can't have this  
19 important element of social transition because  
20 it's too medically dangerous for you to get  
21 this other medically necessary treatment is  
22 just bonkers. It's -- it's not appropriate.

23 Q. Okay. And in this case, it's your  
24 opinion that it would be medically appropriate  
25 for the plaintiffs here to be able to change

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1       the sex identifier on their birth certificate,  
2       right?

3           A.       I think it's medically necessary  
4       for transgender patients to be allowed to  
5       change the gender marker and the name on all of  
6       their identity documents.

7           Q.       Have you been asked by plaintiffs'  
8       counsel to provide a rebuttal to the opinion  
9       submitted by Dr. Van Meter and his expert  
10      report?

11          A.       I think in my report, I actually  
12      commented on Dr. Van Meter's report.

13          Q.       Yeah. So that's my question is  
14      have you been asked by plaintiffs' counsel to  
15      provide a rebuttal to the opinion provided by  
16      Dr. Van Meter and his expert report?

17          A.       They gave me a copy of his report  
18      and they said if you think anything's important  
19      to comment on in your report, comment on it.

20          Q.       And what you're just leafing  
21      through there, Defendants' Exhibit 19, those  
22      comments are included in that report, right?

23          A.       Yes.

24          Q.       In fact, Paragraph 2 of your report  
25      says: I have been asked by plaintiffs' counsel

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1 to provide my expert opinion to respond to and  
2 rebut the opinions offered by Dr. Quinton L.  
3 Van Meter in his expert report in order to show  
4 how Ohio's policy refusing to provide accurate  
5 birth certificate gender markers for  
6 transgendered people born in Ohio harms  
7 transgender individuals.

8 You see that, right?

9 A. Yes.

10 Q. Is that the only opinion you were  
11 asked to render in this matter?

12 A. I was asked to talk about the --  
13 the policy, the central element to, I think,  
14 what this litigation's about, like should  
15 transgender people be allowed to change their  
16 birth certificate.

17 Q. And you said "the policy." You're  
18 talking about the policy of defendants to not  
19 allow transgendered individuals to change their  
20 birth certificate on -- to change the birth  
21 certificate because of their gender identity,  
22 right?

23 A. Correct.

24 Q. Did you -- before rendering that  
25 opinion, did you review any materials?

1           A.       I reviewed the -- I think it's  
2       called the complaint, like, the suit premises,  
3       I guess.   I reviewed Dr. Van Meter's report.  
4       In the course of all of this, I reviewed  
5       Dr. Ettner's report, but I don't think that was  
6       before I wrote my report.   I'm not entirely  
7       sure, but I don't think so.   I think that's it.  
8       I mean, there's been a couple other things that  
9       they've sent me subsequently, but that was the  
10      crux of -- the complaint and Dr. Van Meter's  
11      report.

12           Q.       What other things did they send to  
13      you?

14           A.       Like I said, Dr. Ettner, I think  
15      Dr. Van Meter wrote a report about Dr. Ettner's  
16      report.

17           Q.       So his rebuttal report?

18           A.       I think that's what you call it,  
19       yes.   I think that's it, but there might have  
20       been something small in addition, but those are  
21       the ones that I remember that stand out to me.

22           Q.       Do you -- well, which opinions of  
23      Dr. Van Meter did you rebut in your -- or  
24      respond to in your report?

25           MS. INGELHART: Objection. Vague.

1 You can answer.

2 THE WITNESS: In regards to  
3 Dr. Van Meter's report, I think he came to  
4 conclusions that are very much in contradiction  
5 to what is accepted by the broader medical  
6 community as far as treating trans patients,  
7 and his views on that are pretty fringe. I  
8 think he also underestimated the number of  
9 people who have DSDs. He also seemed to say  
10 that there was no biologic basis for people  
11 being transgender, and I think the research  
12 literature doesn't support that. I think he  
13 also underestimated the incidence of  
14 transgender people in general. I think his  
15 assumption about the karyotypes of the  
16 plaintiffs and being sort of absolutely  
17 definitive about that was -- nothing was a  
18 scientifically accurate way to describe that  
19 because we know that transgender people, when  
20 compared to cisgender or non-transgender people  
21 actually have a higher rate of abnormal  
22 karyotypes. I may have said other things, but  
23 I think those are the high points.

Q. Did you provide an opinion regarding the harm caused by inaccurate birth

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1 records to transgendered people?

2 A. Yes.

3 Q. Do you know whether Dr. Van Meter  
4 provided an opinion as to harm or potential  
5 harm caused by inaccurate birth records?

6 MS. INGELHART: Objection.

7 Foundation, but you can answer.

8 THE WITNESS: I think he had the  
9 opinion that birth records should not be  
10 changed, and while I don't think he described  
11 the harms that would come from that, I think  
12 the harms that would come from that are pretty  
13 obvious to anybody who takes care of a lot of  
14 transgender people. I don't have his report in  
15 front of me, though, so I can't tell you for  
16 sure, but I don't recall him specifically  
17 saying, yes, we shouldn't allow people to  
18 change their identity documents and these are  
19 the bad things that will happen to them if we  
20 do or if we don't.

21 Q. This was a document which was  
22 previously marked as Defendants' Exhibit 19 --  
23 or 18, sorry, which is the expert report of  
24 Dr. Van Meter. Where in this report does  
25 Dr. Van Meter conclude that birth records

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1       should not be changed?

2           A.       On Page 5 in his conclusions, he  
3       says that No. 29: Ohio birth certificates  
4       record an individual's sex.

5           Q.       Do you disagree with that?

6           A.       I disagree with Dr. Van Meter's  
7       definition of sex in subsequent paragraphs.

8           Q.       Okay. So do you disagree with the  
9       statement that Ohio's birth certificates record  
10      an individual's sex?

11          A.       Using my definition of "sex" and  
12       not Dr. Van Meter's, I think that's reasonable,  
13       but I also don't think it's always correctly  
14       recorded.

15          Q.       How does your definition of "sex"  
16       differ from Dr. Van Meter's?

17          A.       From his points in his conclusion,  
18       it seems that he says that chromosomes are the  
19       determinant of sex and always align with what  
20       he thinks sex is, and that that should be what  
21       is utilized for Ohio's birth certificate.

22          Q.       And you disagree with that because?

23          A.       I think it's very simplistic to  
24       think that sex is only what your external  
25       genitals look like or what your chromosomes are

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1       or that what your external genitalia look like  
2       reflects what your chromosomes look like. I  
3       think sex is a much more complicated concept.

4           Q.     If you turn to Paragraph 3 of  
5       Dr. Van Meter's report, there's a heading that  
6       says -- sorry, not Paragraph 3, Page 3, there's  
7       a heading that says: Biological sex is binary.  
8       Let me know when you're there.

9           A.     I'm there.

10          Q.     And if you look at Paragraph 14, it  
11       says: From the moment of conception, a fetus  
12       is determined to be either a male XY, female  
13       XX, or in rare cases to have a combination sex  
14       determining chromosomes.

15           Do you disagree with that  
16       statement?

17          A.     I think that at conception, every  
18       fetus has sex chromosomes. Most of the time,  
19       those are either XY or XX. In rare cases,  
20       though not as rare as he suggests later in his  
21       report, those are either not XX or XY. They  
22       might be just one X, two Ys, or in some cases,  
23       the gene on the Y chromosome that sends you  
24       down the typically male developmental pathway  
25       is actually moved onto the Y chromosome.

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1       Although while chromosome abnormalities are  
2       often not compatible with life, actually sex  
3       chromosome abnormalities are some of the ones  
4       that are the most compatible with life.

5           Q.     So you disagree with Dr. Van Meter  
6       on the rate of such abnormalities, but just so  
7       everyone is on the same footing, I mean, are we  
8       talking about one percent of the time, half a  
9       percent of the time, three percent of the time?

10          A.     I'd say half to a quarter of a  
11       percent of the time.

12          Q.     Okay. So he may be, you know, a  
13       hundredth of a percent of the time or whatever,  
14       but you still acknowledge that it's exceedingly  
15       rare these type of chromosomal abnormalities,  
16       right?

17                   MS. INGELHART: Objection.

18                   Mischaracterizes prior testimony, but you can  
19       answer.

20                   THE WITNESS: One in 200 isn't  
21       exceedingly rare. That's more common than kids  
22       who have cystic fibrosis or kids who have  
23       sickle cell, so it's not exceedingly rare.  
24       It's uncommon, it's rare.

25          Q.     Okay. So I guess without getting

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1       into the definition of how he's using the word  
2       "rare," you would agree, then, that from the  
3       moment of conception, a fetus is determined to  
4       be either male, XY; female, XX; or in rare  
5       cases, to have a combination of sex determining  
6       chromosomes, many of which are not compatible  
7       with life, and some of which are the cause of  
8       identifiable clinical syndromes. You agree  
9       with that, right?

10                  MS. INGELHART: Objection.

11                  Mischaracterizes prior testimony. You can  
12                  answer.

13                  THE WITNESS: I don't think that's  
14       exactly what I said. I think what I said was  
15       that at fertilization, most fetuses are XX or  
16       XY, and if you're XY, it sends you typically  
17       down the pathway for male reproduction, but  
18       that doesn't determine your sex. That's one  
19       aspect of biologic sex that should be taken  
20       into consideration, but is not the determining  
21       factor for sex.

22                  Q. And when you say "most," you mean  
23       99 out of a hundred or less?

24                  A. Ninety-nine out of a hundred or  
25       less is --

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1           Q.     If you could go back to Page 5 of  
2 Dr. Van Meter's report.

3           A.     I'm there.

4           Q.     And you look at Paragraph 30, it  
5 says: Gender identity is not observable or  
6 detectable at the time of birth.

7           Do you see that?

8           A.     Yes.

9           Q.     Do you agree with that conclusion?

10          A.     Not entirely.

11          Q.     You believe that there are  
12 mechanisms by which you can detect gender  
13 identity at the time of birth?

14           MS. INGELHART: Objection.

15          Misstates, mischaracterizes prior testimony.

16          You can answer.

17           THE WITNESS: In the case of  
18 children with intersex conditions, that we have  
19 reasonable research that tells us as adults,  
20 this child is likely to identify as male or  
21 female, you can talk about that. So you can  
22 say in XY fetuses that are born with complete  
23 androgen insensitivity syndrome, virtually all  
24 of them identify as women in adulthood, whereas  
25 XY fetuses who have five alpha reductase

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1 inhibitor deficiency, it's 60/40 as to whether  
2 or not they identify as male or female in  
3 adulthood. You can also say with most people  
4 who don't have an intersex condition, that if  
5 they're XY, they'll identify as male in  
6 adulthood and if they're XX, they'll identify  
7 as female, so you can make an educated guess,  
8 but that's going to be wrong sometimes.

9 Q. So if you turn to your report,  
10 Defendants' Exhibit 19 and you turn to Page 4,  
11 look at Paragraph 14, let me know when you're  
12 there.

13 A. I'm there.

14 Q. You define gender identity as the  
15 internal sense of one's self as, for example,  
16 being a male or female. Do you see that?

17 A. I do.

18 Q. What -- how can you determine  
19 someone's gender identity as a newborn if it is  
20 the internal sense of one's self?

21 A. As I said, you can make an educated  
22 guess based on information available to you at  
23 the time. So if you have an XY fetus that has  
24 complete androgen insensitivity syndrome, it's  
25 a pretty good guess that that child is going to

1       identify as female in adulthood. If you have  
2       an XY baby who -- that we can find has no  
3       detectable intersex condition, you can make an  
4       educated guess that as an adult, that child is  
5       going to identify as female. So you can't say  
6       with certainty, but you can say the odds that  
7       something is going to be the case.

8           Q.     So isn't that what's already  
9       happening when a child is born in Ohio in and  
10      the medical provider looks at the external  
11      genitalia, they say that looks like male  
12      external genitalia. Pretty good guess that  
13      that's an XY chromosome child, right?

14          A.     Exactly. It's a pretty good guess.

15          Q.     And then it's a pretty good guess,  
16       based on your testimony, that their internal  
17       sense of one's self, their gender identity is  
18       also going to be male, right?

19          A.     Again, that's a good guess.

20          Q.     Okay. But you can't know for  
21       certain what the gender identity of a child is  
22       going to be based on their external genitalia,  
23       right?

24          A.     Or karyotyping or anything.

25          Q.     Or karyotype or if they're born

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1       with intersex conditions, right?

2           A.     Correct.

3           Q.     Certainly can't ask them?

4           A.     Not at that age, no.

5           Q.     Getting back to Dr. Van Meter's  
6 report, and I just want to close sort of this  
7 line of questioning. Where in Dr. Van meter's  
8 report does he discuss potential for harm  
9 caused by the policy of defendants or the law  
10 related to when Ohio will change the sex  
11 identifier on a birth certificate?

12          A.     Again, I don't see where he did  
13 talk about the harm that this experience by  
14 trans people who don't have accurate identity  
15 documents.

16          Q.     So to the extent your report gives  
17 an opinion on the harm that's caused by the  
18 mismatched identity documents, that's not in  
19 response to Dr. Van Meter, right?

20           MS. INGELHART: Objection.

21           Mischaracterizes testimony in the report, but  
22 you can answer.

23           THE WITNESS: Well, there's two  
24 answers to that question. The first is my  
25 opinion about that is based on my almost 15

1       years of experience treating a lot of  
2       transgender patients, many of whom weren't able  
3       to easily change their gender identity  
4       documents, and so seeing the harms that those  
5       people suffer. But I think, also, when I heed  
6       Dr. Van Meter's report, it seems to me that he  
7       thinks that it is appropriate to not change  
8       identity documents for transgender people. It  
9       may be the case that he just has not taken care  
10      of enough transgender people to realize what  
11      harms they suffer, and I always assume that  
12      people are trying to do the right thing, and so  
13      he doesn't talk about that, but I think that's  
14      an omission on his part and a lack of  
15      understanding on his part.

16           Q.     So he doesn't talk about whether or  
17      not it's appropriate to change identity  
18      documents, right?

19           MS. INGELHART: Objection.  
20           Mischaracterizes, but you can answer.

21           THE WITNESS: No. I think he does  
22      talk about it.

23           Q.     Where does he talk about the  
24      appropriateness of changing an identity  
25      document?

1           A.     In his conclusions, he says: Ohio  
2 birth certificates record an individual's sex.  
3 That's Paragraph 29. And then he goes on to  
4 state that the plaintiffs' sex is --  
5 essentially, their sex is assigned at birth.  
6 So taking those two points together, it seems  
7 he thinks that the sex you're assigned at birth  
8 should be the sex that determines your -- or  
9 the sex that is listed on your birth  
10 certificate.

11           Q.     But he doesn't explicitly say that,  
12 right?

13           MS. INGELHART: Objection. You can  
14 answer.

15           THE WITNESS: I mean, it's kind of  
16 obvious. He says they record sex. I think the  
17 plaintiffs' sex are not what the vast majority  
18 of transgender health care providers would  
19 describe as their sex. And, you know, if he  
20 says it should record sex and this person's sex  
21 is male, he's essentially saying that person's  
22 sex should be recorded on their birth  
23 certificate as male.

24           Q.     And then he doesn't go into whether  
25 or not that would harm them in any way, right?

1           A.     Not that I recall, but I -- it took  
2       me a while to read his report, so rereading it  
3       again here would take some time too.

4           Q.     Did you reduce all of your opinions  
5       in this matter into your written report?

6           A.     There's a -- this is a very  
7       complicated subject, so I gave what I think is  
8       a summary of my opinions. But did I put every  
9       bit of knowledge that I have that informs that  
10      in there, no.

11          Q.     Okay. Are you being compensated  
12       for rendering your opinion in this matter?

13          A.     Typically, in cases where the  
14       plaintiffs' attorneys are representing the  
15       plaintiff pro bono, I waive compensation for  
16       hours, but I do expect my travel time  
17       compensated -- or not travel time, travel  
18       expenses compensated. So in this case, I  
19       waived, for the ACLU, my expert witness fee  
20       because they are representing these patients  
21       pro bono.

22          Q.     But you expect to be compensated  
23       for your expenses, flight, hotel room, things  
24       like that, right?

25          A.     Exactly.

1           Q.     All right. Exhibit 19 also  
2 includes a copy of your CV and bibliography,  
3 Exhibits A and B, right?

4           A.     Yes.

5           Q.     All right. If you turn to  
6 Exhibit B, which is a copy of the bibliography,  
7 are these materials that you relied on to form  
8 your opinion in the report?

9           A.     They're things that I cited in my  
10 report and there are a few things that, for  
11 example, the National Transgender  
12 Discrimination Survey, that has a lot more  
13 information than what I may have cited in my  
14 report. And so some of these things are  
15 citations and some of these things are, I  
16 think, important data points from the  
17 literature.

18           Q.     Okay. So to the extent that items  
19 in your bibliography are cited in your report,  
20 you would have relied on them in forming the  
21 opinions in your report, right?

22           A.     Those places where they were  
23 particularly cited.

24           Q.     Okay. Are there any other  
25 materials in the bibliography that you relied

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1       on in forming the opinions in your report?

2           A.       For example, the standards of care,  
3 I mean, that's sort of how I practice.

4           Q.       Are you talking about the WPATH  
5 standards of care?

6           A.       Yes.    Correct.

7           Q.       Where are those located?

8           A.       It's on the first page, halfway  
9 down, Coleman E., Bockting.

10          Q.       Okay.    Anything else?

11          A.       The Toronto guidelines are a good  
12 example of trans health care or guidelines.

13          Q.       Where is that one?

14          A.       That's just above the other one,  
15 Bournes, A.

16          Q.       Okay.    Any other ones?

17          A.       I'm honestly not sure which ones  
18 are cited ones or which ones aren't.

19          Q.       Well, the ones that are cited are  
20 cited in there.   Those ones are just easy to  
21 find, right?   I mean, you've got TransLine,  
22 footnote one, retrieved from <http://project-health.org/TransLine>.   I don't know if  
23 that's in your bibliography, but that was  
24 something that was cited, right?

1           A.     So let's just go down them.   So the  
2       first one, the AAP, I think that was a  
3       citation.   The second one, the APA Task Force,  
4       that may have been a citation, but it's also  
5       just kind of a good general document.   Bauer, I  
6       cited.   Bentz, I cited.   Bournes, we talked  
7       about.   Byne and Bradley, that might be a  
8       citation, but it's also just generally a good  
9       document.   We talked about the standards of  
10      care.   Collin, I cited.   Coolidge, I cited.  
11      Diamond, I cited.   Fraser, I'm not sure if I  
12      cited, but it's also just generally a good  
13      article.   My own paper, I'm not actually sure  
14      if I cited it.   I know that sounds dumb.   The  
15      National Transgender Discrimination Survey, we  
16      talked about.   Hare was a citation.   Hembree is  
17      the Endocrine Society's guidelines, so I may  
18      have cited that, but that's also just a  
19      generally good document.   Henningsson, I cited.  
20      Inoubli, I cited.   James, et al., it's that  
21      same National Transgender Discrimination  
22      Survey.   Lee, I cited both of them.   Lehavot, I  
23      cited.   Makadon is, again, just a good guide.  
24      I may have cited it, but I'm not sure.   Seaborg  
25      is a citation that Dr. Van Meter used, so I

1       went -- in commenting that, I cited it.  
2       Southern Poverty Law Center, I cited when  
3       talking about the American College of  
4       Pediatrics. And Wieckx, I probably cited that,  
5       but it's also just a good general study that I  
6       may have included.

7           Q.     All right. So, I mean, it sounds  
8       like you relied on pretty much everything in  
9       your bibliography, then, right?

10          A.     Some things are specific citations  
11       and some things are just generally good  
12       transgender medicine.

13          Q.     All of which you relied on in  
14       forming the opinions in your report, right?

15          A.     In some way or other, yes.

16          MS. INGELHART: Excuse me. Could  
17       we take another break? You're close? I can  
18       wait.

19          MR. BLAKE: Let's finish up  
20       bibliography stuff and then we'll break for  
21       lunch.

22          MS. INGELHART: Sure.

23          Q.     Other than the materials we  
24       discussed, you know, the complaint, the report  
25       of Dr. Van Meter, Dr. Ettner's report,

1 materials in your bibliography, did you review  
2 or rely on anything else in preparing your  
3 expert opinion?

4 A. In preparing my report?

5 Q. Uh-huh.

6 A. Not that I can think of, but  
7 there's a lot of literature that I have in the  
8 brain, so...

9 Q. I get it, that some knowledge is  
10 just general knowledge, right? I mean, in some  
11 way, shape or form, you're relying on stuff you  
12 learned in medical school?

13 A. Exactly.

14 Q. But talking specific to this  
15 report?

16 A. Correct.

17 Q. And did you review, at any time,  
18 whether in preparation for the report or  
19 subsequent to your report, did you review the  
20 motion to dismiss or any of the related  
21 pleadings?

22 A. I reviewed the motion to dismiss,  
23 which they sent me last week, maybe.

24 Q. Okay. So that was in preparation  
25 for today?

1           A.     I think that was -- I don't know if  
2     it was in preparation, but this is part of the  
3     case, so...

4           Q.     Okay. Did you review the order  
5     related to the motion to dismiss?

6           A.     What the judge said?

7           Q.     Yes.

8           A.     I actually think -- I'm not sure --  
9     I read the judge's response to that.

10          Q.     Okay. Not the pleadings underlying  
11     the order?

12          A.     I don't think so.

13          Q.     Okay. Did you review any of  
14     plaintiffs' discovery responses?

15          A.     I don't know what that is.

16          Q.     Okay. Then I'll take that as "no"  
17     for now, and if we look at them later and you  
18     say "I did see this," I won't crucify you for  
19     it.

20          A.     Sure.

21          Q.     Did you interview any of the  
22     plaintiffs at any time?

23          A.     No.

24          Q.     And I assume you haven't conducted  
25     any medical or psychological examinations of

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1           the plaintiffs?

2           A.       No.

3           Q.       Have you ever met any of the  
4           plaintiffs in this matter?

5           A.       Not that I know of.

6           Q.       Have you spoken to anyone else  
7           aside from your counsel, but have you spoken to  
8           anyone else in connection with this matter  
9           since rendering your opinion?

10          A.       No.

11               MS. INGELHART: Objection. Vague.  
12               I'm sorry. You can answer.

13               THE WITNESS: No. Just the  
14               attorneys.

15               MR. BLAKE: All right. Yeah, we  
16               can take a break.

17               MS. INGELHART: Cool.

18               (Luncheon recess taken.)

19

20

21

22

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25

1                   AFTERNOON SESSION

2                   CONTINUED EXAMINATION OF RYAN GORTON, M.D.

3                   BY MR. BLAKE:

4                   Q.       We're going to turn to Exhibit A of  
5                   your expert report, Defendants' Exhibit 19. Go  
6                   ahead and turn to Exhibit A.

7                   A.       Okay.

8                   Q.       And this is a copy of your CV,  
9                   correct?

10                  A.       Correct.

11                  Q.       You noted there was an update  
12                  regarding the GEI certification, right?

13                  A.       Yes, and one additional talk.

14                  Q.       Okay. So would that GEI  
15                  certification, would that be listed now under  
16                  your licensure and certification?

17                  A.       Yes.

18                  Q.       And fair to say September 2019  
19                  through present?

20                  A.       I think they --

21                  Q.       October?

22                  A.       It might have been the first of  
23                  October they sent me the result.

24                  Q.       Okay. So October 2019 through  
25                  present, that's the GEI?

1           A.        Correct.

2           Q.        And you said there was one  
3        additional talk?

4           A.        Yes. I gave a plenary at the Gay  
5        and Lesbian Medical Association in September.

6           Q.        Okay. So September plenary at --  
7        I'm sorry, the what again?

8           A.        GLMA, the Gay and Lesbian Medical  
9        Association, GLMA.

10          Q.        Okay. Any other updates?

11          A.        No.

12          Q.        Okay. So your professional  
13        practice, you've listed the things we talked  
14        about earlier, your work at Sutter Davis, the  
15        work at Saint Tammany, and you have, underneath  
16        volunteer activities, this Lyon-Martin work; is  
17        that accurate?

18          A.        Yes.

19          Q.        So are you paid for the primary  
20        services you provide at Lyon-Martin?

21          A.        No. I work pro bono there.

22          Q.        But you're paid for your work at  
23        Sutter Davis, right?

24          A.        Yes.

25          Q.        You've never worked as a

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1 psychologist, right?

2 A. No.

3 Q. And your medical training is not in  
4 the field of molecular geneticist, right?

5 A. Genetics is a part of medical  
6 school, but I don't have a degree in that.

7 Q. Okay. You're not an expert in  
8 genetics?

9 A. I have as much expertise in  
10 genetics as most physicians would have.

11 Q. But not as much as a geneticist?

12 A. Correct.

13 Q. And you don't have any expertise in  
14 endocrinology either, right?

15 A. Again, that's a part of general  
16 medical practice, and so I treat patients with  
17 endocrine disorders, but I do it as a primary  
18 care provider.

19 Q. And I have any -- well, do you  
20 refer your patients to endocrinologists as part  
21 of your practice?

22 A. Rarely, but sometimes.

23 Q. When there's, like, some sort of  
24 special need to do so?

25 A. Often, it's diabetes management.

1 Q. Okay.

2 A. That is more than typical diabetes  
3 management of primary care.

4 Q. So like your familiarity with  
5 genetics, would you say that your knowledge of  
6 endocrinology is as much as any other  
7 physician?

8 A. I would say probably a little more  
9 than average in that I treat a lot of  
10 transgender patients and their endocrinology  
11 issues with those, so as part of my practice, I  
12 do more of that.

13 Q. But your expertise would be  
14 certainly less than someone who's a trained  
15 endocrinologist, right?

16 A. Yes. Absolutely.

17 Q. Your professional affiliations, are  
18 those also current on Page 2?

19 A. The two in the middle are prior  
20 ones that I gave years for. I'm still a WPATH  
21 member and I'm still -- I'm the GLMA medical  
22 expert's panel, which is basically just a  
23 running list of people that can refer to.

24 Q. For the World Professional  
25 Association for Transgendered Health

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1       Membership, what are the qualifications to be a  
2       member of that organization?

3           A.     To be a member, I don't know if  
4       there's a specific restriction. I mean, there  
5       are students who are members, there are medical  
6       professionals, mental health professionals,  
7       some lawyers who are members, so I don't think  
8       there's a cutoff for it. Obviously, for GEI  
9       certifications, there is, and if you  
10      participate in committees, it's usually because  
11      you have some expertise in that area.

12           Q.     Usually, but not always?

13           A.     I'm not on all the committees, so I  
14      don't know who's on all the committees, so I  
15      couldn't tell you, but...

16           Q.     The Transgender Medicine Research  
17      Committee and the Institutionalized Persons  
18      Committee, do those require any special degree  
19      or certification to be a member of the  
20      committee?

21           A.     Medicine Research Committee, I  
22      think it's more of your interest in it.  
23      Medical students can be members. The  
24      Institutionalized Persons Committee, I don't  
25      know if there's requirements, but most of the

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1       people there have experience in that area. In  
2       fact, everybody that I know who's on it has  
3       experience in that area and you're asked to  
4       participate if you're knowledgeable.

5           Q.     Okay. But you're not aware of any  
6       specific criteria or certification which you  
7       need in order to join either of those  
8       committees?

9           A.     That I know of, no.

10          Q.     Are you an officer at WPATH?

11          A.     No.

12          Q.     Would you agree that WPATH's -- one  
13       of WPATH's primary missions is advocacy on  
14       behalf of transgendered folks?

15           MS. INGELHART: Objection. Vague.  
16       You can answer.

17           THE WITNESS: In the sense that  
18       health care providers, in treating many  
19       different conditions, have to be advocates for  
20       their patients, yes.

21          Q.     You've listed about two pages worth  
22       of publications and papers on Pages 2, 3 and 4  
23       of your CV. Do you see that?

24          A.     I do.

25          Q.     Did you rely on any of these

1 publications or papers to form the opinions  
2 expressed in your expert report?

3 A. A lot of the knowledge that  
4 informed my expert report was the same  
5 knowledge that informed writing those papers or  
6 co-writing those papers, and so the knowledge  
7 base is the same, but it's not like I went back  
8 to one of these and read it before I created my  
9 report.

10 Q. Did you go back and look at any of  
11 them in creating your report?

12 A. If I used the first one, Gorton and  
13 Berdahl, as a citation, I think I may have gone  
14 back to look at that to get the correct point.

15 Q. Okay. Any others?

16 A. That I remember, no.

17 Q. Same question for your  
18 presentations, did you go back and look at or  
19 rely on any of the materials that are -- that  
20 were part of these presentations or talks?

21 A. That I can think of directly, no.

22 Q. All right. Go to Paragraph 14 of  
23 your opinion. It's on Page 4 of Defendants'  
24 Exhibit 19. Are you there?

25 A. I'm there.

1           Q.     All right. This is the definition  
2       of gender identity that we read and discussed  
3       earlier. Do you recall that?

4           A.     I do.

5           Q.     Are there any other definitions of  
6       gender identity that you're familiar with?

7           A.     There are a lot of different ways  
8       of stating this, but I think the general idea  
9       that gender identity is the internal sense of  
10      one's self as a man or a woman or somewhere on  
11      the spectrum between those is reasonably  
12      accepted.

13          Q.     You didn't use "spectrum" here to  
14      describe gender identity, did you?

15          A.     No. I just used, for example,  
16      being male or female because that's the most  
17      common identities.

18          Q.     But you would also include the  
19      concept of a spectrum as also defining gender  
20      identity?

21          A.     There are transgender patients that  
22      I've treated who don't feel like they belong in  
23      either the male or female category and that  
24      they're somewhere along that spectrum, and so,  
25      yeah, people do define that way.

1           Q.     Okay. Let's look back at  
2 Defendants' 20, which is the declaration you  
3 gave in the Whitaker case. And if you turn to  
4 Page 4 of that document and look at  
5 Paragraph 11, let me know when you're there.  
6 Are you there?

7           A.     Yes.

8           Q.     Gender identity is each  
9 individual's internal sense of themselves as  
10 belonging to a particular gender such as male  
11 or female. So similar to what you described in  
12 your expert report in this case in  
13 Paragraph 14, but not identical, right?

14          A.     No, because I might write the same  
15 thing slightly different.

16          Q.     But in your mind, those two are  
17 pretty close?

18          A.     Yes.

19                - - - - -

20               (Thereupon, Deposition Exhibit 21,  
21 Declaration, was marked for purposes  
22 of identification.)

23               - - - - -

24          Q.     You've just been handed what has  
25 been marked as Defendants' Exhibit 21, and if

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1       you flip through it, you'll see that this is a  
2       declaration that you provided in the case of  
3       Edmo versus Idaho Department of Correction. Do  
4       you see that?

5           A.     Yes.

6           Q.     Does this appear to be a true and  
7       accurate copy of that declaration?

8           A.     I haven't read the whole thing, but  
9       I'm assuming it's correct.

10          Q.     Okay. If you go to Paragraph 18,  
11       which is on page -- well, 35 of 100 of the  
12       document, but Page 6 of the declaration, you  
13       define gender identity as the hardwired  
14       internal sense of one's gender. Do you see  
15       that?

16          A.     Yes.

17          Q.     That's a very different definition  
18       than you used in the other two declarations,  
19       correct?

20              MS. INGELHART: Objection.

21       Misstates and mischaracterizes prior testimony.

22              THE WITNESS: I don't see that.

23          Q.     Well, what did you mean by  
24       "hardwired"?

25          A.     That in adults, this isn't

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1 something that really changes.

2 Q. Okay. So how is that similar to  
3 what you've defined as the internal sense of  
4 one's self as, for example, being a male or  
5 female?

6 A. So in adults, people have a gender  
7 identity. Everyone has one. Transgender  
8 people, non-transgender people, and it doesn't  
9 really change in adulthood to an appreciable  
10 amount.

11 Q. So what does gender identity have  
12 to do with being an adult?

13 A. Gender identity in preadolescent  
14 children can sometimes be fluid and change.  
15 Typically, once early adolescence has  
16 commenced, it's fairly fixed, and by adulthood,  
17 completion of puberty, it's not really  
18 something that can be changed.

19 Q. So I don't see that in your  
20 definition -- any of these definitions, gender  
21 identity, this concept of fluidity as a child  
22 or being fixed as an adult. Is that somehow  
23 implicit in some of the words that you've  
24 chosen to use here?

25 A. In each of these documents, I'm

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1       trying to explain a very nuanced concept, and  
2       so to not make every declaration the size of a  
3       book, I try to provide a working definition,  
4       which I think there's a lot of aspects on  
5       gender identity that we could talk about that  
6       they're not needed to talk about the definition  
7       in the sense that I'm using it in the document.  
8       In this document, it's about an adult trans  
9       person, so I don't really feel the need to say,  
10      well, gee, when she was seven, her gender  
11      identity might have been different because  
12      that's not at issue here.

13           Q.     Would you agree that based on the  
14       fluidness of a child's gender identity, it  
15       would be impossible for the State of Ohio or  
16       anyone to identify the gender identity of a  
17       newborn?

18           MS. INGELHART: Objection.

19           THE WITNESS: Again, as I said  
20       before, you can make an educated guess, and  
21       that educated guess might be 99 percent likely  
22       to be correct.

23           Q.     But it would just be a guess?

24           A.     An educated guess. A guess is  
25       flipping a coin, so you can say based on the

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1 information I have about this child in front of  
2 me, 99 percent chance this child is going to  
3 identify as male or female as an adult.

4 Q. Is gender identity hardwired when  
5 someone is a child?

6 MS. INGELHART: Objection. Vague.  
7 You can answer.

8 THE WITNESS: Kids can be very  
9 fluid about a number of different aspects of  
10 their identity. This is one of them. In some  
11 children, even preadolescence, it's really  
12 obvious this kid's gender identity is male or  
13 female. In some kids, they may identify as  
14 both or different at different times. So in  
15 the majority of children, you could say, yes,  
16 this kid identifies as male now, 99 percent  
17 chance, ten years from now when they're 18,  
18 they identify as male, but there are some kids,  
19 and they're a minority, that their gender  
20 identity, again, is fluid in preadolescence.

21 Q. So in those cases, gender identity  
22 is not hardwired?

23 A. No, it's hardwired, it's just  
24 developing.

25 Q. So it's hardwired, but changing?

1           A.     So, for example, a child who is  
2 transgender with or without an intersex  
3 condition, they're -- with or without a  
4 detectable intersex condition, their gender  
5 identity is influenced by their genetics, their  
6 prenatal environment, and those are things that  
7 we know affect that. And so the things that  
8 push people towards one identity or another is  
9 relatively fixed because if a kid has an  
10 intersex condition, like, for example, five  
11 alpha reductase inhibitor deficiency, it's  
12 about 60/40 do they identify as male or female  
13 in adulthood. And so you can say this kid has  
14 five alpha reductase inhibitor deficiency and  
15 they may identify as male or female in  
16 adulthood, and right now, the child might not  
17 have figured that out, might not have gone  
18 through the developmental stages necessary for  
19 that to be a certain thing. So the -- the  
20 things that affect gender identity are fixed,  
21 some of them are. The things that -- or -- but  
22 the child's ultimate gender identity may not be  
23 fixed.

24           Q.     The internal sense of their gender  
25 is hardwired?

1 MS. INGELHART: Objection.

2 Misstates and mischaracterizes. You can  
3 answer.

4 THE WITNESS: Let me give you  
5 another example. So there are genes that  
6 determine height, and so -- and there's some of  
7 these that we know. And so you can say this  
8 child is born with genes that will very likely  
9 make them quite tall, but if that kid, during  
10 childhood and adolescence, has nutritional  
11 problems, they may not become tall, they may be  
12 quite short as an adult, right, but it doesn't  
13 mean you can't say there are things that are  
14 hardwired that are going to affect this child's  
15 height in adulthood. It's just you can't  
16 predict that on a two year old 'cause you can't  
17 say, gee, this two year old is going to develop  
18 short gut syndrome and be chronically  
19 malnourished so they're going to be short  
20 anyway. Even though they have the  
21 predisposition to be tall, they're going to end  
22 up short.

23 Q. Which genes indicate a person's  
24 gender identity?

25 A. There's a lot of different genetic

1       aberrations that can affect that. For example,  
2       five alpha reductase deficiency. There's a  
3       number of genes that form the group of  
4       diagnoses of congenital renal hyperplasia,  
5       complete androgen sensitivity syndrome, that's  
6       the androgen receptor. There are a lot of  
7       different things that can influence this from a  
8       genetic perspective. I think I also cited a  
9       few papers that talked about this gene is more  
10      common in trans patients, though we don't know  
11      everything.

12           Q.     Those are all DSDs that you just  
13      talked about, the five alpha, the androgen  
14      insensitivities, right? You would all qualify  
15      those as DSDs, correct?

16           A.     Those patients can have DSDs and be  
17      transgender, and I have had transgender  
18      patients with those diagnoses. They're not  
19      mutually exclusive.

20           Q.     I understand that. But I asked you  
21      whether or not there were genes that determined  
22      someone's gender identity, and I think you just  
23      gave me a list of several DSDs, right?

24           A.     Genes that can affect people's  
25      gender identity.

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1           Q.        Okay.  But those were all DSDs,  
2 correct?

3           A.        The ones that I gave you examples  
4 of, yes.

5           Q.        So there are transgender people  
6 that have DSDs, right?

7           A.        And more commonly than people  
8 without DSDs who are trans, yes.

9           Q.        And there are folks that have DSDs  
10 that aren't transgender, right?

11          A.        Correct.

12          Q.        And then there are transgendered  
13 folks that do not have DSDs, right?

14          A.        Yes, but it's probably the case  
15 that there's a certain percentage that have  
16 DSDs we're just not aware of.

17          Q.        Okay.  But you would agree that  
18 there are people without DSDs that are  
19 transgendered?

20          A.        Correct.

21          Q.        So those DSDs, while they may, at  
22 least in your opinion, influence someone's  
23 likelihood or not to be transgendered, they  
24 aren't determinative of their status of a  
25 transgendered person, correct?

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1 MS. INGELHART: Objection. Vague.

2 You can answer.

3 THE WITNESS: The thing that  
4 determines whether or not somebody's  
5 transgender is their gender identity, which you  
6 can't figure that out with a blood test.

7 Q. There's no genetic test that would  
8 say, aha, that person is going to be  
9 transgendered?

10 A. There are genetic tests that can  
11 tell you about somebody's gender identity as an  
12 adult -- or tell you the likelihood of certain  
13 gender identity as an adult, but whether that  
14 person identifies as transgender is not  
15 something you could tell from a genetic test.

16 Q. Would you agree that an  
17 individual's internal sense of their gender is  
18 not hardwired when they are seven, six, five, a  
19 young child?

20 MS. INGELHART: Objection. Vague.  
21 You can answer.

22 THE WITNESS: I don't think  
23 that's -- again, it's what we talked about.  
24 Those things that influence your gender  
25 identity, known and unknown that medicine

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1       understands and that medicine doesn't  
2       understand, are present and the die is cast in  
3       seven year olds.

4           Q.     I'm talking about the internal  
5       sense, though, just that one specific internal  
6       sense of your gender, is that hardwired as a  
7       preadolescent, prepubescent young child?

8           MS. INGELHART: Objection. Vague.  
9       You can answer.

10           THE WITNESS: All of the things  
11      that we're talking about, gender identity,  
12      internal sense of one's self, they're  
13      biologically based in the same way that  
14      depression or anxiety is biologically based.  
15      It may be a mental health symptom, but it's  
16      because of the squishy organ between your ears  
17      that you experience that. Medicine's  
18      understanding of that is not always complete,  
19      but what we do understand is that there are  
20      things that will tend to make somebody  
21      transgender. We may not be able to identify  
22      the exact gene, but, for example, in twin  
23      studies, we know that identical twins who share  
24      the same prenatal environment and postnatal  
25      environment are more likely to be concordant

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1       about whether or not they're trans than  
2       fraternal twins who share the same prenatal  
3       environment, postnatal environment, but they're  
4       no more genetically similar than siblings. So  
5       you can say yeah, there's something there and  
6       it's something in the genes because that's the  
7       only real difference between identical and  
8       fraternal twins, but I can't point to a  
9       specific gene on a specific chromosome that  
10      does that.

11           Q.     So your statement that young  
12       children are hardwired and that gender identity  
13       is biologically based, is that solely based on  
14       the twins study?

15           MS. INGELHART: Objection.

16           Compound and vague. You can answer.

17           THE WITNESS: There are a number of  
18       studies that I cited, the between study being  
19       one of them, Dr. Diamond's twin study, that  
20       indicate a genetic component to predisposition  
21       to being transgender, but it's not a definite,  
22       100 percent thing, and that's the case with a  
23       lot of genes. I was talking about height. You  
24       can have all the genes predisposing you to be  
25       tall, but if you don't get enough nutrition in

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1       early childhood, you're not going to be tall.  
2       So there are things that influence gender  
3       identity in adulthood that are present and  
4       fixed in preadolescence, but the manifestation  
5       of that, we're not certain of that. Just like  
6       the kids who has the genes to be tall, we're  
7       not certain they're going to be tall until they  
8       get to a certain height. We're not certain  
9       this kid identifies as a transgender person in  
10      adulthood until they get to a certain point in  
11      adolescence. But that doesn't change the fact  
12      that you know that there are things that  
13      predispose to that, to being tall, to being  
14      transgender, that are present from  
15      fertilization.

16           Q.     So is it fair to say that, in your  
17      opinion, gender identity -- sorry, the  
18      predisposition towards a gender identity is  
19      biologically based, but not necessarily  
20      determinative of someone's gender identity?

21           MS. INGELHART: Objection.

22           Compound. Vague. You can answer.

23           THE WITNESS: It's even more  
24      complicated than that. There are some things  
25      that are -- that have a great deal of influence

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1 and some things that have a lesser influence,  
2 and so how much or how likely someone is to be  
3 of a male gender identity or a female gender  
4 identity in adulthood, you can tell with  
5 varying degrees of certainty, but nothing is  
6 absolute.

7 Q. Nothing with regards to gender  
8 identity is absolute?

9 A. As far as the development of gender  
10 identity throughout childhood and adolescence.

11 Q. What are some of the things that  
12 have a great deal of influence on a person's  
13 gender identity?

14 MS. INGELHART: Objection. Vague.  
15 You can answer.

16 THE WITNESS: Some of the things I  
17 already mentioned, certain DSDs like complete  
18 androgen insensitivity syndrome. They almost  
19 universally identify as women as adults.

20 Q. Anything else?

21 A. The more severe forms of adrenal --  
22 congenital adrenal hyperplasia have a much  
23 greater likelihood of identifying male as  
24 adults.

25 Q. That's another type of DSD?

1           A.       Yes. If you show me a child that  
2       is seven that has had a fixed, unwavering  
3       gender identity since they were two, I could  
4       say with pretty good certainty it's not going  
5       to change much. The children without that just  
6       absolute I'm a boy, I'm a girl in every aspect  
7       of their life, they've never come away from  
8       that, the ones who aren't quite that adamant  
9       about it, that's more iffy.

10          Q.       Does your karyotype have a great  
11       deal of influence on your gender identity?

12          A.       Having a Y chromosome that is  
13       not -- or sorry. Having an XY chromosome  
14       without the present of DSDs is pretty  
15       predictive of a male gender identity in  
16       adulthood, like 99 percent. Having two X  
17       chromosomes without a known DSD is pretty  
18       predictive about 99 percent or more of being --  
19       having female gender identity in adulthood.

20          Q.       External genitalia, does that have  
21       a great deal of influence on gender identity?

22            MS. INGELHART: Objection. Vague.  
23            You can answer.

24            THE WITNESS: We actually know from  
25       studies where they've had XY children who were

1       born without an apparent DSD who had either a  
2       circumcision mishap or another disorder that  
3       caused their penis not to develop, previously,  
4       for many years, they would say, well, let's  
5       raise this child as a girl and create -- do a  
6       vaginal plasty, create a vagina for her, and a  
7       lot of those kids didn't identify as female in  
8       adulthood. So if it's the case that you have a  
9       baby that has typical male genitalia without  
10      the presence of a known DSD, most likely,  
11      that's a person who's going to identify as male  
12      in adulthood. But if you take that kid's  
13      genitalia and, for some reason, change it,  
14      that's not going to make them change their  
15      gender identity. So the presence of genitals  
16      can be a clue, but it's not like that changes  
17      your gender identity one way or the other.

18           Q.     The same would be for a child with  
19      intersex conditions, does that have a great  
20      deal of influence on their gender identity?

21           MS. INGELHART: Objection. Vague.

22           THE WITNESS: Depends on the  
23      intersex condition.

24           Q.     Okay. So which intersex conditions  
25      have a great deal of influence on gender

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1 identity?

2 MS. INGELHART: Objection. Vague.

3 THE WITNESS: An example I've  
4 already given was complete androgen  
5 insensitivity syndrome. That's basically the  
6 androgen receptor doesn't work. So you can  
7 have all the testosterone in the world, and  
8 that doesn't set off the changes in the cell  
9 that testosterone usually does, and those  
10 children almost universally identify as women  
11 in adulthood.

12 - - - - -

13 (Thereupon, Deposition Exhibit 22,  
14 Declaration, was marked for purposes  
15 of identification.)

16 - - - - -

17 Q. Just handed you what's been marked  
18 as Defendants' 22, which is a copy of a  
19 declaration you gave in the case Corbitt v.  
20 Taylor. Do you see that?

21 A. I do.

22 Q. And does this appear to be a true  
23 and accurate copy?

24 A. Same thing. I haven't read it, but  
25 I'm assuming you gave me the correct thing.

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1           Q.     Turn to Paragraph 11, which is on  
2     Page 4 of the document. It says: Gender  
3     identity is the internal sense of one's self as  
4     male, female or somewhere along the spectrum  
5     between the two, or as in the case of agender  
6     individuals, external to this spectrum. It  
7     should be noted that gender identity being a  
8     product of the central nervous system should be  
9     considered one of the characteristics when  
10   describing the sex of an individual.

11                  Do you see that?

12           A.     I do.

13           Q.     Somewhat more of an expounded upon  
14     definition of gender identity than the other  
15     definitions we looked at?

16                  MS. INGELHART: Objection.

17                  Misstates and mischaracterizes prior testimony.  
18                  Vague. You can answer.

19                  THE WITNESS: Again, like I said,  
20     it's a complex idea, and so depending on how I  
21     use it in a particular report, I may go into  
22     more detail or not, though they're all -- all  
23     of the ones we've talked about are true and I  
24     agree with them.

25           Q.     This one, the one we just looked at

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1       in the Corbitt declaration in Paragraph 11,  
2       Defendants' Exhibit 22 specifically calls out  
3       that spectrum concept that we talked about  
4       earlier, right?

5           A.     Yes.

6           Q.     Is it your understanding that  
7       Dr. Meter's opinions focuses on the distinction  
8       between sex and gender?

9           MS. INGELHART: Objection. Vague.  
10          You can answer.

11           THE WITNESS: I think he has an  
12       understanding of sex and gender that is far  
13       from mainstream.

14           Q.     So you don't know if he  
15       distinguishes between sex and gender in his  
16       expert report?

17           A.     I can't remember precisely. If you  
18       want me to take time to read through it, I can.

19           Q.     So if you turn to Van Meter's  
20       report, which is Defendants' Exhibit 18, and if  
21       you turn to Page 4 of the report, look at  
22       Paragraph 21. Just above that paragraph,  
23       there's a heading which says: Gender identity  
24       is distinct from biological sex.

25           Do you see that?

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1           A.     I do.

2           Q.     And then it goes on in Paragraph 21  
3     to define gender, and he says: It is a term  
4     that refers to the psychological and cultural  
5     characteristics that have been traditionally  
6     associated with biological sex. It is a  
7     psychological concept and sociological term,  
8     not biological like sex.

9                  Do you see that?

10          A.     I do.

11          Q.     So after reading that caption and  
12     that sentence from that paragraph, do you now  
13     understand that Dr. Van Meter reaches a  
14     conclusion about the distinction between sex  
15     and gender?

16                  MS. INGELHART: Objection. You can  
17     answer. Calls for possibly expert testimony,  
18     speaking to another expert's opinion. You can  
19     answer, if you can.

20                  THE WITNESS: I'm not -- are you  
21     talking about gender or gender identity?

22          Q.     I'm talking about gender.

23          A.     So I think he uses "gender" in a  
24     way that makes it clear that he thinks it has  
25     nothing to do with sex, and I think that's not

1 right.

2 Q. Yeah. I -- I'm not asking what  
3 your opinion is on that, I'm merely asking you  
4 whether you recognize that Dr. Van Meter  
5 reached a -- an opinion or opined on the  
6 difference or distinction between gender and  
7 sex. I'm not asking you whether you agree with  
8 that, I'm simply asking whether or not you  
9 recognize there is such a distinction?

10 A. Between gender and sex, yeah.

11 Q. Okay. You don't explicitly define  
12 "sex" in your expert report, correct?

13 MS. INGELHART: Objection.

14 THE WITNESS: Do you mean give a  
15 definition of it?

16 Q. That's right.

17 A. I think my expert report makes it  
18 clear what I think sex is.

19 Q. All right.

20 A. But I'm not sure I put a definition  
21 at the beginning. I could be wrong.

22 Q. You've got a terminology section,  
23 right, if you look back at your report,  
24 Defendants' Exhibit 19?

25 A. Okay.

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1 Q. All right. And you define gender  
2 dysphoria in Paragraph 12, right?

3 A. Correct.

4 Q. Gender identity disorder in  
5 Paragraph 13?

6 A. Correct.

7 Q. And you say that's now referred to  
8 as gender dysphoria, right?

9 A. Yes.

10 Q. And gender identity in 14, right?

11 A. Yes.

12 Q. No other terms which you've  
13 explicitly defined; is that accurate?

14 MS. INGELHART: Objection.

15 Misstates and mischaracterizes testimony.

16 Answer.

17 THE WITNESS: I explained later on  
18 what I think sex is.

19 Q. Okay.

20 A. So I think I kind of did give you  
21 my definition in the body of the work.

22 Q. Why didn't you explicitly define  
23 "sex" in your expert report and terminology  
24 section?

25 MS. INGELHART: Objection.

1 Misstates and mischaracterizes testimony in the  
2 report. You can answer.

3 MR. BLAKE: I'll withdraw the  
4 question.

5 Q. Did you explicitly define "sex" in  
6 the terminology section of your report?

7 A. In the terminology section?

8 Q. Correct.

9 A. No.

10 Q. Okay. So why did you not  
11 explicitly define "sex" in the terminology  
12 section of your report?

13 A. Because when I was using "sex" in  
14 my report, I was talking about a very complex  
15 idea, and I felt it would be more appropriate  
16 to just spend time in the report explaining  
17 what that was rather than trying to give a  
18 short definition, as we discussed before. My  
19 definitions are sometimes very short, sometimes  
20 more detailed, but in this case, "sex" is such  
21 an important thing, I wrote more about it in my  
22 actual report.

23 Q. Would it have been possible to give  
24 a short definition of the term "sex" in your  
25 terminology section?

1           A.        Sure.

2           Q.        Why -- and you didn't, though,  
3 because you thought it was just too complicated  
4 for this subject matter or --

5           A.        Honestly, I wrote the report and  
6 then I read through it and I said what should I  
7 give some quickie definitions for, and that's  
8 how I picked the ones that were in there.

9           Q.        What is your definition of sex?

10          A.        Sex is the combination of multiple  
11 biologic characteristics of -- since we're  
12 talking about people, of humans that usually  
13 places people into one of male or female  
14 groups, but there are some people, for example,  
15 transgender people and people with DSDs who  
16 don't fall exactly into those two boxes at the  
17 end based on the fact that one aspect is not  
18 congruent with the other aspects.

19          Q.        Is sex binary or a spectrum?

20          A.        I don't think it's binary.

21          Spectrum's one way to describe it.

22          Q.        You have described it that way,  
23 right?

24          A.        It's a spectrum, but not a bell  
25 curve.

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1           Q.        Okay. I mean, in Paragraph 20 of  
2 your report, you say: Sex is the biological  
3 characteristics of an individual or organism  
4 that place it along a spectrum or in discrete  
5 categories, including male or female. Right?

6           A.        Right.

7           Q.        So it's a spectrum on the one hand  
8 or it's in a discrete category, including male  
9 or female, right?

10              MS. INGELHART: Objection. Asked  
11 and answered.

12              THE WITNESS: There are two  
13 discrete categories in humans, male or female,  
14 into which 99 percent of people fit, and then  
15 there's a spectrum between those two in which a  
16 much smaller number of people exist.

17              Q.        So for the overwhelming majority of  
18 people, it is binary, male or female?

19              A.        For the majority. I wouldn't say  
20 overwhelming.

21              Q.        Ninety-nine percent isn't  
22 overwhelming to you?

23              MS. INGELHART: Objection.

24              THE WITNESS: No.

25              Q.        Would you say gender is more or

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1 less binary than sex?

2 MS. INGELHART: Objection. Vague.

3 You can answer.

4 THE WITNESS: It's kind of apples  
5 and oranges, but I would say they're about the  
6 same.

7 Q. Okay.

8 MS. INGELHART: Can we take a short  
9 break?

10 MR. BLAKE: We haven't been going  
11 an hour, but we can take a very short break.  
12 We've only been going about 45 minutes, but  
13 yes, we can take a very short break.

14 (Recess taken.)

15 Q. So just to recap, we were talking  
16 about sex, male or female, for the majority of  
17 people being a binary classification, right?

18 A. The majority of people fit into the  
19 male or female bucket.

20 Q. One or the other, right?

21 A. Right. But true binary would imply  
22 that there's not people in the middle, but most  
23 people fit on one of those two.

24 Q. And that -- and you view gender as  
25 neither more nor less binary than sex; is that

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1        accurate?

2            A.        I think it is still the case that  
3        with gender, the same majority of people who  
4        fit into the two categories of male or female  
5        as far as sex also fit into the two categories,  
6        male or female, as far as gender. I think --  
7        so the number of people who fit on those two  
8        ends is not significantly different. I think  
9        there's a little more -- there's a little more  
10      expression of gender with regards to being in  
11      the middle.

12           Q.        Variation?

13                  MS. INGELHART: Objection. Vague.

14                  THE WITNESS: There's the same  
15      amount of variation, but people sometimes may  
16      express it more.

17                  Q.        Go ahead. I've passed you a  
18      document which was previously marked as  
19      Defendants' 12. And these are the standards of  
20      care, the most recent edition of the standard  
21      of care published by the WPATH. I'm sure  
22      you're familiar with this document, right?

23                  A.        Yes.

24                  Q.        If you turn to Page 16, there's a  
25      numbered list that starts on Page 15 and

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1       carries onto Page 16. And No. 4, the first  
2       sentence says: Mental health professionals  
3       should not impose a binary gender.

4                          Do you agree with that?

5       A.       When you're working with  
6       transgender clients, yes.

7       Q.       Okay. So despite the WPATH's  
8       standard of care which warns against imposing a  
9       binary view of gender on transgendered  
10      individuals, is it your expert opinion that the  
11      State of Ohio should nevertheless impose a  
12      binary expression of plaintiffs' gender  
13      identity on their birth certificates?

14                          MS. INGELHART: Objection. Calls  
15      for a legal conclusion. Vague. Misstates and  
16      mischaracterizes prior testimony.

17                          THE WITNESS: And I'm not sure what  
18      you're asking.

19       Q.       We both agree that the WPATH says  
20      that mental health providers shouldn't impose a  
21      binary view on gender, right?

22       A.       Correct.

23       Q.       You testified -- or you, in your  
24      expert report, at great length, talked about  
25      the harm that occurs to people when they do not

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1 have identity documents which match their  
2 gender, right?

3 A. Correct.

4 Q. Okay. So the identity document at  
5 issue here is a birth certificate, right?

6 A. Correct.

7 Q. The birth certificate can say male  
8 or female, right?

9 MS. INGELHART: Objection. Calls  
10 for a legal conclusion.

11 THE WITNESS: I think sometimes.

12 MS. INGELHART: Vague. You can  
13 answer.

14 THE WITNESS: They don't write a  
15 gender at birth if you're not sure if the child  
16 has a DSD.

17 Q. Does that apply to any of the  
18 plaintiffs here?

19 A. I don't think so, no.

20 Q. So for all intents and purposes of  
21 this litigation, plaintiffs are speaking either  
22 a male or female designation on their birth  
23 certificate, right?

24 A. That's my understanding.

25 Q. Okay. So that's a one or the other

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1 designation, a binary designation, right?

2 A. What the plaintiffs are seeking,  
3 yes.

4 Q. Okay. And so despite what the  
5 WPATH says about -- about not imposing a binary  
6 view of a person's gender, you, nonetheless,  
7 think that in this case, the State of Ohio  
8 should impose that binary view on their birth  
9 certificate --

10 MS. INGELHART: Objection.

11 Q. -- related to someone's gender  
12 identity?

13 MS. INGELHART: Objection. Calls  
14 for a legal conclusion. Misstates prior  
15 testimony. Mischaracterizes prior testimony.

16 THE WITNESS: I think the WPATH  
17 standards of care here are trying to talk to  
18 mental health providers about how to do therapy  
19 with clients. That's a lot different than an  
20 agency that is giving identity documents to  
21 people, right. There are a lot of trans people  
22 who may identify as somewhere along that  
23 spectrum, but maybe closer to male, so it would  
24 be good for them to have "M" on their ID.

25 Q. So at least that part of the

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1 standard of care you don't think necessarily  
2 applies to the birth certificates at issue  
3 here?

4 MS. INGELHART: Objection.

5 Misstates prior testimony. Mischaracterizes  
6 prior testimony. Calls for a legal conclusion.  
7 Asked and answered.

8 THE WITNESS: I think the WPATH  
9 standards of care here are talking about how  
10 you treat people in therapy, and so that's  
11 different from how people are treated in  
12 society and how they get identity documents  
13 issued to them. I think the WPATH here is not  
14 speaking to agencies who provide identity  
15 documents, they're talking to therapists.

16 Q. So that's a "yes"?

17 MS. INGELHART: Objection. Asked  
18 and answered. Misstates prior testimony.  
19 Mischaracterizes prior testimony. Calls for a  
20 legal conclusion. You can answer.

21 THE WITNESS: I don't think they're  
22 the same thing. So saying to a therapist that  
23 if your client identifies somewhere on the  
24 spectrum between male or female, don't try to  
25 say to them you have to pick man or woman is

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1       very different from saying to the patient, gee,  
2       you have a more masculine gender identity and  
3       expression. What would be the safest and best  
4       thing for you to have on your identity  
5       documents? So I think it is possible for a  
6       health care provider to both support a patient  
7       transitioning a binary option on an identity  
8       document while also understanding that that  
9       patient's gender identity may not fit exactly  
10      in those -- those boxes.

11           Q.     Have you ever looked at an Ohio  
12      birth certificate before?

13           A.     Not that I know of.

14           Q.     This was previously marked as  
15      Defendants' Exhibit 1. It is the birth  
16      certificate for one of the plaintiffs in this  
17      matter. The word "gender" doesn't appear on  
18      the birth certificate, right?

19           A.     Not that I can see, no.

20           Q.     It states "sex," right?

21           A.     Correct.

22           Q.     This particular one states male,  
23      right?

24           A.     Correct.

25           Q.     As a medical provider, do you

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1 understand the value of recording an  
2 individual's sex at the time of their birth?

3 MS. INGELHART: Objection. Vague.  
4 Calls for a legal conclusion. You can answer.

5 THE WITNESS: I understand that the  
6 state may want statistics about that, but I  
7 don't see the value beyond statistical analysis  
8 and providing -- otherwise, the whole birth  
9 certificate providing evidence that this person  
10 was born and they're a citizen.

11 Q. Well, like, for example, the  
12 statistical information regarding growth charts  
13 for infants is one way in which knowing a  
14 child's sex is relevant, right?

15 A. Yeah, but...

16 MS. INGELHART: Objection. Calls  
17 for a legal conclusion and vague. You can --  
18 or not legal conclusion. Objection. Vague.  
19 You can answer.

20 THE WITNESS: Yeah, but  
21 pediatricians don't have a child walk into  
22 their office and say can you show me little  
23 Billy's birth certificate so I can make sure  
24 I'm using the right growth chart? They look at  
25 the kid and they talk to the parents and they

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1       get a history, and that's what informs it.

2           Q.     How is the information communicated  
3        to the organizations that create the growth  
4       charts, do you know?

5           A.     I'm not sure what you're asking.

6           Q.     How are the growth charts formed,  
7       do you know?

8           A.     They've done studies on a bunch of  
9       kids and they follow them throughout childhood  
10      and say 95 percent of kids fall within this  
11      length and weight, and they're from research  
12      studies.

13          Q.     And who compiles that, do you know?

14          A.     They're kind of sort of -- it's old  
15      data. I mean, they haven't changed that much.  
16      The one thing that does happen is there are  
17      growth charts specific to certain kids, so you  
18      could get growth charts specific to kids with  
19      certain illnesses. But, I mean, it's been the  
20      same for a long time and it's just you studied  
21      kids and saw they grew this much by this age  
22      and you average it together. It's not  
23      something that changes often. And I don't  
24      think there's an agency that comes up with  
25      those, I think they're published in journals.

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1 Q. To your knowledge?

2 A. Yes, to my knowledge.

3 Q. You're not a pediatrician, right?

4 A. No.

5 Q. When a person is born, do you have  
6 a general understanding of how the sex of that  
7 individual is determined?

8 A. Generally, yeah.

9 Q. And what is that?

10 A. The pediatrician or family practice  
11 doctor caring for the infant or sometimes the  
12 obstetrician or midwife attending the delivery  
13 does a relatively cursory examination of the  
14 child's genitals and says it's a boy or it's a  
15 girl or these genitals are atypical. We need  
16 more information.

17 Q. Should -- in your opinion, should  
18 the medical provider perform the more detailed  
19 examination of the genitals at the time of  
20 birth?

21 A. It's warranted if there are clues  
22 that this might not be normal.

23 Q. And do you have any understanding  
24 of whether or not a more detailed examination  
25 is conducted if there are circumstances which

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1 warrant such an examination?

2 A. Yeah. Generally, kids who have a  
3 typical genitals undergo a -- an evaluation.

4 Q. A more thorough evaluation?

5 A. A more thorough evaluation.

6 Q. If a medical provider is providing  
7 the right level of care, right?

8 A. Medical or nursing provider.

9 Q. And you use the word "cursory" like  
10 it's somehow insufficient to determine the sex  
11 of a child, but, I mean, you don't think that  
12 the check or examination of a child at the time  
13 of birth is in any way insufficient, do you?

14 MS. INGELHART: Objection.

15 Misstates prior testimony. Mischaracterizes  
16 and is also compound.

17 THE WITNESS: I think people look  
18 at a child's genitals and say male, female or I  
19 don't know, and that's something that happens  
20 really quick. You look at it. If it looks  
21 like a penis and a scrotum with two descended  
22 testicles, okay. That's it. That takes a  
23 second or two.

24 Q. Is that insufficient?

25 MS. INGELHART: Objection. You can

1 answer.

2 THE WITNESS: It is sometimes  
3 incorrect.

4 Q. How often is it incorrect, do you  
5 know?

6 A. So in the case of transgender  
7 people, I think that incidents is probably  
8 somewhere in the one in 200 to one in 500  
9 range.

10 Q. So what do you mean in the case of  
11 a transgendered person? What do you mean by  
12 that?

13 A. So most transgender people have a  
14 gender identity that is different from their  
15 sex assigned at birth, and so in most cases,  
16 for transgender people, that assignment at  
17 birth is incorrect.

18 Q. But it's not your testimony that  
19 the doctor misidentified the genitalia at birth  
20 for transgendered people, correct?

21 MS. INGELHART: Objection.

22 Misstates --

23 MR. BLAKE: That's why I'm asking  
24 for the clarification.

25 Q. That's not you're testimony, is it?

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1           A. It is that the doctor does not have  
2 enough information at birth to 100 percent or  
3 to make that determination with a hundred  
4 percent accuracy.

5           Q. What is that determination?

6           A. The sex of the individual, of the  
7 child.

8           Q. So they've -- you don't -- so I  
9 guess I want to -- I want to back up.

10           How often does a medical provider  
11 misidentify the external genitalia at the time  
12 of birth?

13           A. If you add up all of the intersex  
14 conditions, the children with DSDs that may not  
15 be identified at birth, which is a lot of them,  
16 and those people who are transgender, half a  
17 percent.

18           Q. Transgendered people don't have  
19 misidentified genitalia --

20           MS. INGELHART: Objection. Vague.

21           Q. -- right?

22           A. No. They have an incorrectly  
23 listed sex on this birth certificate.

24           Q. So I'm not asking you about the --  
25 what you're calling an incorrectly identified

1       sex, I'm asking you: During this what you've  
2       termed a cursory examination of the newborn's  
3       external genitalia, how many times do the  
4       doctors get it wrong?

5                   MS. INGELHART: Objection. Vague.

6                   THE WITNESS: So what is the  
7       doctor -- when they look at the genitalia --

8                   Q.       That's right.

9                   A.       -- determining?

10                  Q.       That's right.

11                  A.       I'm asking for clarification.

12                  Q.       Okay.

13                  A.       So if the question is how accurate  
14       is a doctor looking at the genitalia  
15       determining the sex --

16                  Q.       That's right.

17                  A.       -- or determining what the  
18       genitalia looked like?

19                  Q.       The latter one.

20                  A.       Okay. A doctor can say that looks  
21       like male genitalia, female genitalia or  
22       ambiguous.

23                  Q.       And how often do they get that  
24       incorrect?

25                  A.       Be definition, if you're talking

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1       about how something looks, they wouldn't.

2           Q.       That almost never happens, right?

3           A.       No.      There are cases where people's  
4       sex is incorrectly put on their birth  
5       certificate, typo.

6           Q.       But as a -- so it's a typographical  
7       error?

8           A.       On the part of the person filling  
9       it out.

10          Q.       Okay.

11          A.       Who is the one who looked at the  
12       genitals.

13          Q.       But you don't have any, like, stats  
14       or percentages based on what you know, you  
15       know, how these doctors misidentify the  
16       genitalia when they're doing this examination  
17       at birth, right?

18          A.       Misidentify -- actually, a better  
19       way to say this is the doctor, when they  
20       identify the child at birth, looks and sees is  
21       there a penis or is there a clitoris, is there  
22       a scrotum or are there labia. And being able  
23       to say those look like labia, that looks like a  
24       scrotum, that looks like a clitoris, that looks  
25       like a penis, there's probably, occasionally,

1 and I can't tell you the number, the person is  
2 tired, they write the gender marker down  
3 incorrectly. But if you're asking sex, that's  
4 different than is there a penis or a clitoris  
5 present. I think penis or clitoris, you can  
6 say that that's almost always correctly  
7 identified.

8 Q. And like you said before, it's not  
9 possible to identify the gender identity of a  
10 newborn at the time of birth, right?

11 A. Again, you can make an assessment  
12 that is going to be correct 99 percent of the  
13 time, but is not going to be absolutely  
14 correct.

15 Q. Yeah. There's -- there is, in  
16 fact, no way to correctly, a hundred percent of  
17 the time, identify the gender identity of a  
18 newborn at the time of birth, right?

19 A. A hundred percent of the time, no.

20 Q. Okay. 'Cause the only way that you  
21 can truly determine a person's gender identity  
22 is by talking to them, right?

23 A. By evaluating them, yes.

24 Q. And if you found a person  
25 unconscious, there aren't any medical

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1       procedures or evaluations you could perform to  
2       determine the gender identity of that  
3       unconscious person, right?

4                     MS. INGELHART: Objection. You can  
5       answer.

6                     THE WITNESS: I could look at their  
7       medical history and their record.

8                     Q.     Well, that would reveal that  
9       they've maybe undergone some transition, right,  
10      through medical intervention or otherwise,  
11      right?

12                  A.     Yes. And if that's the case and  
13      you have the notes for the therapist who  
14      treated the patient, they assess that, so it's  
15      sometimes possible.

16                  Q.     But even then, it might not -- I  
17      mean, I guess, speaking in pure hypotheticals  
18      here, but it's possible someone has undergone  
19      medical -- you know, medical transition,  
20      medical intervention, but are not themselves  
21      transgender, right?

22                  MS. INGELHART: Objection. Vague.

23                  THE WITNESS: That somebody's been  
24      diagnosed with gender dysphoria and undergone  
25      hormonal and surgical treatment, is that what

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1 you're talking about?

2 Q. No, I wasn't, but -- and I didn't  
3 realize that that's what you were talking  
4 about. So when you talk about looking at  
5 someone's medical record, that would include  
6 notes from a psychologist that would identify  
7 them as having gender dysphoria, for example?

8 A. Sometimes, yes.

9 Q. Okay. So I suppose -- I suppose,  
10 you know, not having the benefit of someone's  
11 psychological evaluations, if you find them  
12 unconscious, there aren't any medical  
13 procedures or evaluations you could perform to  
14 determine the gender identity of that  
15 unconscious person, right?

16 MS. INGELHART: Objection. Vague.

17 THE WITNESS: Let me give you an  
18 example from my emergency medicine practice.

19 Q. Okay.

20 A. We have a medical record that  
21 actually has a transgender function in it where  
22 the patient can identify their preferred  
23 pronoun, their preferred name. And I work at a  
24 hospital in a university town, and there's  
25 a not insignificant population of trans young

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1       people that attend the university, and so I've  
2       had cases where Friday night, they went out  
3       drinking, they were intoxicated, they came in,  
4       they were registered based on the driver's  
5       license they had in their pocket or their  
6       student ID card, and then I saw that  
7       information, so sometimes you do.

8           Q.     So this is, like, someone who's  
9       incapacitated in some way?

10          A.     Drunk.

11          Q.     Are they able to talk to you?

12          A.     Not when they're that drunk that  
13       they end up in the ER.

14          Q.     So they're incapacitated, you can't  
15       ask them, hey, what's your gender, right?

16          A.     Correct.

17          Q.     You look at their driver's license,  
18       and based on their driver's license and, what,  
19       something about their physical appearance,  
20       you're able to make an inference that they are  
21       transgender?

22              MS. INGELHART: Objection.

23       Incomplete hypothetical. You can answer.

24              THE WITNESS: Sometimes it says  
25       that in the medical record, so yeah, I'm very

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1       certain. There are some cases where I kind of  
2       go that's possible. I'm not sure. But I have  
3       had cases where I've known that this person was  
4       trans, even with a driver's license that may  
5       not have been corrected yet.

6           Q. Again, I mean, if you're looking at  
7       their medical record that's being communicated  
8       by them to their medical record and then  
9       through to you at some later time, right?

10          A. It was the observations of treating  
11       professionals, but then also in the medical  
12       record we use, it is possible for somebody to  
13       say I want you to use the pronoun "he/him," or  
14       "she/her" and I want you to use this name. So  
15       the patient can state it or it can be an  
16       observation based on their evaluation.

17          Q. You would agree that there's no  
18       tests, medical or psychological, to diagnose  
19       transsexualism, right?

20           MS. INGELHART: Objection.

21           THE WITNESS: No.

22          Q. You disagree with that statement?

23          A. Yes, I do.

24          Q. It says in Paragraph 7 of your  
25       report that you've evaluated roughly 400

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1 transgendered patients since 2005, right?

2 A. Yeah. I actually just had my  
3 clinic director run that. It's over 500. I've  
4 been using 400 for years.

5 Q. Four hundred, 500, whatever. Let  
6 me ask you this: Have you ever evaluated  
7 someone who is transgendered whose gender  
8 identity later reverted back to their birth  
9 sex?

10 A. I have treated a few patients who  
11 have detransitioned, but not because their  
12 gender identity changed.

13 Q. Okay. Hold on a second.  
14 "Detransitioned," that's the term. That's the  
15 term -- that's the proper term?

16 A. That's the common term.

17 Q. The common term. Is that the term  
18 you used?

19 A. It is.

20 Q. Okay. And detransition, can you  
21 tell me what that means?

22 A. So, for example, somebody who's  
23 assigned female at birth but has a male gender  
24 identity in adulthood or somewhere along the  
25 spectrum not female, and they can do any

1 portion of social, medical or surgical  
2 transition, and then at some point decide they  
3 want to undo that.

4 Q. Okay. Understood.

5 All right. So you have had, as  
6 patients, a handful of people that have  
7 detransitioned?

8 A. Yes.

9 Q. Okay. And you said -- well, what  
10 was -- what were the reasons for that?

11 A. Because it's really hard to be  
12 trans in our society.

13 Q. So you attribute their  
14 determination to detransition as to social  
15 pressure?

16 A. Social trauma and social loss. So  
17 you transition and -- and understand, these are  
18 actually old cases in my practice. I mean, I  
19 don't think I've done that in the last five  
20 years. So somebody transitions and their  
21 family rejects them, they lose their job, they  
22 are perceived as transgender in a lot of social  
23 situations, and that brings with it risk of  
24 interpersonal violence, risk of being denied  
25 services. I mean, it's really hard. And so

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1       they decide that it's less painful to go back  
2       in the closet.

3           Q.     I know that you're not a  
4       pediatrician, but are you aware that that  
5       detransitioning is more common in children?

6           MS. INGELHART: Objection. Vague  
7       and possibly incomplete hypothetical.

8           THE WITNESS: It's not so much  
9       detransitioning as it is letting the child  
10      express themselves the way they want to, and  
11      maybe that is -- you know, so, say, for  
12      example, an assigned female at birth child who,  
13      preadolescent, wants to present themselves in a  
14      more masculine way, maybe wants to adopt a more  
15      masculine name, maybe even wants people to use  
16      "he" and "him" as the correct pronoun, and then  
17      in adolescence, they say, you know, maybe  
18      that's not where I am, maybe I'm just a butch  
19      young woman. And so that -- it's not -- it's  
20      not like you've treated kids with hormones or  
21      surgery or done more than -- done more social  
22      transition other than letting the kid play on  
23      the right soccer team, right. And that can  
24      change with time and it's -- it's nothing  
25      that's fixed. So the idea of detransitioning

1 isn't a good way to think about it.

2 Q. Among children?

3 A. Among preadolescent children, yes.

4 Q. You would say that that  
5 circumstance you just described is more common  
6 than the detransitioning among adults?

7 A. Yes, very much so.

8 Q. Okay. And it's also not uncommon  
9 for elderly people who have lived their life as  
10 one gender to transition much later in life,  
11 right?

12 A. I've had a number of elderly  
13 patients who've done that.

14 Q. They live a large portion of their  
15 life as one gender, and then after decades  
16 maybe of marriage, kids, career, et cetera,  
17 they determine that their gender identity no  
18 longer conforms to their sex, right?

19 MS. INGELHART: Objection. Vague.

20 THE WITNESS: It's not that their  
21 gender identity no longer conforms, it's just  
22 that when they were a young adult in the '70s,  
23 it was really, really, really hard to  
24 transition. And so, I mean, there's this idea  
25 that people change when the pain of changing is

1 less than the pain of staying the same, and the  
2 pain of transition in the 1970s was huge. You  
3 had to divorce your spouse. If you had  
4 children, some centers required the children to  
5 be adults and they had to sign a form that said  
6 they were okay with it for you to be able to  
7 get care. Society was much less accepting of  
8 trans people, and so they may not have had the  
9 opportunity. I don't think you'll see that  
10 phenomenon 50 years from now when the 20 year  
11 olds from today are that age because it's just  
12 something that's more available today.

13 Q. So you believe that all of the  
14 elderly people who transition are transitioning  
15 later in life due to social pressures  
16 preventing their transition at an earlier time  
17 in their life?

18 MS. INGELHART: Objection.  
19 Misstates prior testimony and mischaracterizes  
20 it, but you can answer.

21 THE WITNESS: Not just -- yes,  
22 social pressure, but not just that,  
23 availability of services.

24 Q. It wasn't a medical or -- there was  
25 no medical option at the time available to them

1 to transition?

2 MS. INGELHART: Objection.

3 Misstates prior testimony. You can answer.

4 THE WITNESS: In many cases, it was  
5 very difficult to come by.

6 Q. Are you aware of any advocacy  
7 groups or support groups directed at people who  
8 seek to detransition or revert back to their  
9 sex assigned at birth?

10 A. I wouldn't be surprised if that  
11 existed, but I haven't heard of any.

12 Q. Have you heard of the Detransition  
13 Advocacy Network?

14 A. No.

15 Q. Are you aware that that group is  
16 there to provide resources and support to  
17 transgendered people who have decided not to  
18 transition or stop transitioning?

19 A. Like I said, I've never heard of  
20 them, so I don't know what they do.

21 Q. Would you contend that gender  
22 identity is fixed for those individuals?

23 MS. INGELHART: Objection.

24 Incomplete hypothetical.

25 THE WITNESS: So I haven't

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1       evaluated those individuals, but what I can say  
2       is in my experience, the few people who I have  
3       helped detransition, their gender identity  
4       didn't change.

5           Q.     If you can take a look at  
6       Defendants' 20. And Page 4 of the document,  
7       Paragraph 15. If you look at the last  
8       sentence, it says: In such a case, the only  
9       way to identify the person's true sex is to  
10      know the person's gender identity.

11           Do you see that?

12           A.     I do.

13           Q.     What do you mean by "a person's  
14      true sex"?

15           A.     The most medically correct sex  
16      based on an understanding of all the components  
17      that go into determining sex.

18           Q.     Is a person's sex as determined by  
19      their chromosomes their true sex?

20           MS. INGELHART: Objection.

21           Incomplete hypothetical. Vague.

22           THE WITNESS: The vast majority of  
23      people don't know their chromosomal count, I  
24      don't know mine, so that's not something you  
25      can utilize. It's not something you test in

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1       trans people as a matter of course. So if, for  
2       some reason, you know that, yeah, that can go  
3       into it, but that's not something that you know  
4       in the vast majority of cases.

5           Q.     So a true -- a person's true sex,  
6       in your mind, relates to their own  
7       self-awareness of their gender; is that  
8       accurate?

9           A.     I think the most important  
10      characteristic in determining sex from a  
11      clinical and biological perspective is the  
12      person's gender identity, which is a function  
13      of their central nervous system.

14          Q.     And a person's chromosomes do not  
15      factor into what you call their true sex?

16           MS. INGELHART: Objection.  
17          Misstates and mischaracterizes prior testimony.

18           THE WITNESS: That can influence  
19      it, but that's not as important. And like I  
20      said, in the vast majority of cases, you don't  
21      even know that.

22          Q.     What about a person's natural  
23      hormone levels, does that determine their true  
24      sex?

25           MS. INGELHART: Objection. Vague.

1                   THE WITNESS: It is one of many  
2 characteristics that may go into that. When  
3 they are checked pre-transition, in my  
4 experience, there's actually a significant  
5 portion of trans patients who don't have normal  
6 hormone levels before you treat them at all, so  
7 if you know that, it can be something to  
8 consider.

9                   Q.       Are you aware of any studies that  
10 have been conducted that have tested one way or  
11 the other a transgendered person's hormone  
12 levels pre-transition?

13                  A.       There's at least one study that I  
14 can think of that looked at the frequency of  
15 polycystic ovarian syndrome in transgender men,  
16 and that's a hyperandrogenic state where you  
17 have higher than normal androgen levels, and it  
18 was more common amongst trans men, and I  
19 noticed that at my own practice. It's more  
20 common for trans men to have PCOS than  
21 cisgender women than I treat.

22                  Q.       Do you know when that study was  
23 conducted?

24                  A.       No. It's not super recent.

25                  Q.       Do you know the sample size you

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1 used to conduct that study?

2 A. No.

3 Q. Do you know how the sample size was  
4 selected?

5 A. Again, I remember there's a study.  
6 I can get it for you if you want, but I can't  
7 tell you the details of it.

8 Q. Is the sex determined by a person's  
9 external genitalia their true sex?

10 MS. INGELHART: Objection.

11 Incomplete hypothetical. You can answer.

12 THE WITNESS: In the sense of what  
13 is entered on their birth certificate based on  
14 their external genitalia, that's right most of  
15 the time.

16 Q. Is the sex determined by a person's  
17 internal reproductive organs their true sex?

18 MS. INGELHART: Incomplete  
19 hypothetical. You can answer.

20 THE WITNESS: That's a even less  
21 frequently assessed thing, and so, again, while  
22 it can influence it, it's not the biggest  
23 thing.

24 Q. So in your expert opinion, the  
25 critical component of a person's true sex is

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1           their gender identity, right?

2                         MS. INGELHART: Objection. Vague.

3                     You can answer.

4                     THE WITNESS: I think that's the  
5                     most important one, but I think also sometimes  
6                     in investigating patients, you may actually not  
7                     change their gender identity, but change their  
8                     understanding of themselves. So I've had  
9                     patients who presented to me as trans that I  
10                    diagnosed with an intersex condition that they  
11                    previously hadn't been diagnosed with, and it  
12                    doesn't make them not trans, it doesn't change  
13                    their gender identity, but it may make them  
14                    subsequently identify as somebody with a DSD.

15                  Q.     What scientific basis do you have  
16                    to support your opinion that a person's true  
17                    sex is determined in the brain by their gender  
18                    identity?

19                  A.     The most important organ in the  
20                    body is the brain. In fact, that's how we  
21                    determine whether or not you can be an organ  
22                    donor. If your brain is dead, but every other  
23                    organ is functioning normally, we take those  
24                    organs, if you're an organ donor, and give them  
25                    to other people. And gender identity is a

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1       function of the brain. It's what makes you --  
2       you know, the brain is what makes you the  
3       person that you are, and given that, the --  
4       essentially, the sex or the gender of the brain  
5       should be given the greatest importance.

6           Q.     What scientific basis do you have  
7       to state that the brain is what determines  
8       someone's gender identity?

9           MS. INGELHART: Objection.

10          Misstates and mischaracterize testimony. You  
11       can answer.

12           THE WITNESS: That's what organized  
13       medicine does. When trans people come in and  
14       they say my gender identity is female, we don't  
15       offer them reparative therapy to change that,  
16       we offer them therapy to change their body to  
17       match their internal sense of self.

18           Q.     So is there a study that has  
19       indicated that the brain or the part of the  
20       brain that is causing someone to take on a  
21       gender identity?

22           A.     There are a few, like, functional  
23       MRI studies that suggest difference in the  
24       brain of transgender people that more closely  
25       approximates what one would expect based on

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1       what their gender identity is, but the science  
2       in this is super early, you know. There's not  
3       a -- I can't do an MRI on somebody and say your  
4       gender identity is male.

5           Q.     Have you taken a close look at  
6       those functional MRI studies?

7           A.     I mean, I've read them. Not  
8       recently.

9           Q.     Do you know whether those  
10       functional MRI studies control for  
11       neuroplasticity?

12          A.     What do you mean by  
13       neuroplasticity?

14          Q.     That's going to be my next  
15       question. Do you know what neuroplasticity?

16          A.     I know what I understand it to  
17       mean.

18          Q.     What do you understand  
19       neuroplasticity to be?

20          A.     Much more so in children than in  
21       adults, the brain can change. In fact, that's  
22       a -- one of the big things throughout childhood  
23       development is the brain changes, and that's  
24       the reasons that we realize that if kids suffer  
25       trauma, it changes the brains, and that can

1 extend on into adulthood and cause later  
2 problems. Adults have a much lesser  
3 neuroplasticity, and we know some parts of the  
4 brain can take on roles they didn't originally  
5 have, but it's not really a lot in adults.

6 Q. So do you know whether those  
7 functional MRI studies controlled for the  
8 neuroplasticity that you just described?

9 A. I don't understand how you're --  
10 like, what you mean by that.

11 Q. Well, the functional MRI studies  
12 took a look at a number of transgendered  
13 individuals pre- -- pre-transition, right?

14 A. I think there are some that looked  
15 pre and post and some that just looked post.

16 Q. And then -- right. And I was going  
17 to say they also looked at those same  
18 individuals post and looked for similarities,  
19 right?

20 A. Correct.

21 Q. And to see whether or not certain  
22 images from the brain changed or stayed the  
23 same, right?

24 A. Correct.

25 Q. And those MRI studies identified an

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1       area of the brain which they said, you know,  
2       this could relate to someone's gender identity  
3       because it was constant throughout the  
4       transition process, right?

5           A.     Not necessarily because it was  
6       constant, but because it more resembled the --  
7       what you would expect in people whose sex  
8       corresponded with that patient's gender  
9       identity.

10          Q.     But those studies didn't look at  
11       the brains of children, right, to see if the  
12       MRI -- the functional MRI test, whether that  
13       same image was either present or not present in  
14       a child, right?

15          A.     That's a totally different  
16       question. I mean, the studies didn't ask that.

17          Q.     Correct. I agree with that. They  
18       didn't look at what the -- what the child brain  
19       would be, right?

20          A.     Okay. Yes.

21          Q.     Let's go to paragraph -- before we  
22       do that, "true sex" isn't a medical term,  
23       right?

24          A.     When I say that, I mean the most  
25       accurate sex.

1           Q.        Okay. That's not, like, a term  
2        that would appear in a textbook you studied in  
3        medicine school, for example?

4           A.        There are books about treating  
5        trans patients that talk about that.

6           Q.        Is that a psychological term?

7           A.        It is an assessment of a lot of  
8        different things that go into -- or there's a  
9        lot of different things that go into  
10      determining that, but the psychological  
11      evaluation is paramount.

12          Q.        When you do intake of a patient as  
13        an emergency physician, emergency room doctor,  
14        I assume one of the data points you collect is  
15        their sex, right?

16          A.        The sex is in their medical record  
17        already. In cases where it is obvious from  
18        their medical record or I get the feeling that  
19        this might be the case, I may ask them what  
20        their -- you know, do they have a preferred  
21        pronoun that they want me to use, so inviting  
22        the patient to share their gender identity with  
23        me.

24          Q.        From a treatment perspective when  
25        someone comes into the emergency room, does

1       there gender identity ever play a role in the  
2       course of treatment that you're going to  
3       recommend?

4           A.     It can.

5           Q.     How can it?

6           A.     So let's say they're there for  
7       mental health services, they are a college  
8       student and they have suicidal ideation. If  
9       it's the case that I think they need to be  
10      hospitalized when I talk to the accepting  
11      hospital, I'm going to say I think this  
12      person -- you know, do you have a female bed,  
13      not do you have a male bed. And I might, on  
14      behalf of the patient, say, look, I think this  
15      is a trans person and they would be better  
16      suited in this area. Can you produce this or  
17      can you -- not produce this, can you provide  
18      this to the patient. And if the answer's no, I  
19      go to a different facility.

20           Q.     Are these procedures that you would  
21      perform on a male that you wouldn't perform on  
22      a female in an emergency room situation?

23           A.     Given that transgender people  
24      exist, the answer to that's no because there  
25      are some transgender men who are males who

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1        might be pregnant, so I might do a pregnancy  
2        test on them.

3            Q.        You would never do a pregnancy test  
4        on a biological male, right?

5            MS. INGELHART: Objection.

6            THE WITNESS: On somebody assigned  
7        male at birth who has a penis and testicles,  
8        actually, rarely, yes, because there's  
9        occasionally testicular tumors that create the  
10      same hormone that's tested for in pregnancy, so  
11      I have occasionally done that, but not for the  
12      reasons that you would typically think.

13           Q.        And not in the circumstances where  
14      it's important to know whether or not someone's  
15      pregnant, for example, right?

16           A.        Correct.

17           Q.        You would never run a pregnancy  
18      test on a transgendered female, would you?

19           MS. INGELHART: Objection.

20      Incomplete hypothetical.

21           THE WITNESS: I've actually done  
22      that in error because they didn't share with me  
23      that they were trans at the time and then  
24      subsequently realize, oh.

25           Q.        Had you known, you wouldn't have

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1       done it, right?

2           A.     Correct. Unless I thought they  
3       might have testicular cancer.

4           Q.     All right. Now we can do go to  
5       Paragraph 32 of your report.

6           A.     This is 20, right?

7           Q.     Nineteen. There's a lot of reports  
8       floating around, but this is the report in this  
9       case, Defendants' Exhibit 19. Let me know when  
10      you're there. It's on Page 11.

11          A.     Paragraph 30?

12          Q.     Thirty-two.

13          A.     Okay. I'm there.

14          Q.     All right. It says: Thus, in  
15       addition to the purely scientific mandate that  
16       gender identity is the appropriate  
17       determinative factor for selecting male or  
18       female gender markers on identity documents,  
19       there's a clinical imperative that gender  
20       identity be used to make that determination.

21                  Do you see that?

22          A.     I do.

23          Q.     What is the purely scientific  
24       mandate that you reference in this paragraph?

25          A.     That it's scientifically correct,

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1       that the most important determinant from a  
2       biological perspective of whether someone is  
3       male or female is their gender identity.

4           Q.     What -- where do you get scientific  
5       mandate from? Where does that come from?

6           A.     That's the understanding that  
7       people who treat trans people have come to.  
8       And, like I said, the most important aspect of  
9       being a person is your brain because if your  
10      brain dies and the rest of you doesn't, we  
11      still consider you dead. So your personhood is  
12      largely between your ears.

13          Q.     So what is the source of the  
14       mandate that you reference in Paragraph 32?

15          A.     That we understand what the brain  
16       is.

17          Q.     Okay. So is there -- I mean,  
18       that's not how medicine works. You have -- you  
19       have things that you learn from either, you  
20       know, studies or just over time, right? We  
21       know the heart has four chambers, for example.  
22       So where do you draw the knowledge that there's  
23       a purely scientific mandate out there stating  
24       that gender identity is the appropriate  
25       determinative factor for selecting male or

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1 female gender markers on identity documents?

2 Where do you get that?

3 MS. INGELHART: Objection. Asked  
4 and answered.

5 THE WITNESS: Again, that's just  
6 sort of -- I mean, we didn't used to know that  
7 the brain was the center of your knowledge and  
8 understanding and identity. We used to think  
9 it was the heart. Now we understand that who  
10 you are, what you do, what you choose to do,  
11 what is the important -- the most important  
12 characteristic of a person is their brain.

13 Q. Are you able to identify a source  
14 for this purely scientific mandate as you sit  
15 here today?

16 MS. INGELHART: Objection. Asked  
17 and answered.

18 THE WITNESS: It -- you want a  
19 paper that says we understand the brain is the  
20 seed of the intellect and --

21 Q. You stated this in Paragraph 32.  
22 You haven't cited anything. And when you say  
23 it's purely scientific mandate, it's infers  
24 that it comes from somewhere, and I'm just  
25 trying to find out where that mandate comes

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1 from.

2 A. It's comes from our understanding  
3 of your personhood is your brain.

4 Q. Okay. Whose understanding?

5 A. Everybody. UNOS, the United  
6 Network for Organ Sharing. They will take your  
7 organs if you're brain dead. If you're not  
8 brain dead, they're not going to take your  
9 organs.

10 Q. So the United Network for Organ  
11 Sharing says that gender identity is the  
12 appropriate determinative factor for selecting  
13 male or female gender markers on identity  
14 documents?

15 A. No. They say that your personhood  
16 is your brain.

17 Q. Okay. Okay. So not UNOS.

18 Has -- besides you, in Paragraph 32  
19 of this report, has anyone else written that  
20 the purely scientific mandate that gender  
21 identity is the appropriate -- appropriate  
22 determinative factor for selecting male or  
23 female gender marker on identity documents? Is  
24 there anywhere else I can find that?

25 A. There's just some -- there are

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1       things that you -- you understand, right. So I  
2       understand that something simple, like  
3       diabetics have high blood sugar and there are a  
4       lot of studies about controlling the blood  
5       pressure of diabetics, but it is the assumption  
6       and understanding that the thing that makes you  
7       have diabetes mellitus is reflected in elevated  
8       blood sugar. So there's no source for that,  
9       but there's a lot of sources around treatment  
10      of diabetes. And, I mean, that's just --

11           Q.     So your testimony today is that  
12       there's not a medical source out there for  
13       people with diabetes have high blood sugar?

14           MS. INGELHART: Objection. Vague.

15           THE WITNESS: This is a common  
16       understanding of people who work in transgender  
17       medicine. It's not -- it's understood and  
18       flows from our understanding that the most  
19       important thing about you and the thing that  
20       makes you you is your brain. It's not your  
21       left arm, it's not your heart, it's not your  
22       genitals, it's not any of that, it's your  
23       brain, and if your brain has a male gender  
24       identity, that's your male sex. And that's the  
25       case for transgender people and cisgender

1 people.

2 Q. You would agree that an Ohio birth  
3 certificate is an identity document, right?

4 A. Yes.

5 Q. Do you also agree that it is  
6 impossible for a medical provider to use gender  
7 identity to determine whether to input male or  
8 female for sex when a child is born? We  
9 discussed that, right?

10 A. I think what I said was that  
11 providers, based on evaluating the child, can  
12 make a very good guess as to what that's going  
13 to be, and 99 percent of the time, they're  
14 correct.

15 Q. Right. But what it -- you said  
16 what it's going to be, but not what it is at  
17 that moment, right?

18 A. You can't assess it at that moment.

19 Q. And in the case of transgendered  
20 people, it's not your testimony that it would  
21 have been accurate at that moment of birth for  
22 the medical provider to say, yes, I see a  
23 penis, I see descended testicles, but  
24 nevertheless, I'm going to write down "female"  
25 on the birth certificate. You don't think that

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1       that would have been accurate, right?

2                  MS. INGELHART: Objection. Vague.

3                  THE WITNESS: I don't think that  
4       would be the right thing to do, given 99  
5       percent chance it's going to be male, smaller  
6       chance it's going to be female.

7                  Q.       So when does the sex identifier on  
8       a transgendered birth certificate become  
9       inaccurate?

10                 A.       Late adolescence, if it is  
11       incorrect. If you have a cisgender child who's  
12       an identified male as birth and they identify  
13       at 16 that they're male, then you know it's  
14       accurate. If you have somebody who's assigned  
15       male at birth and by the time they're 16, their  
16       gender identity is female, you know it was  
17       inaccurate.

18                 Q.       No way to determine whether a  
19       person's transgender at the time of birth,  
20       right?

21                 A.       No.

22                 Q.       All right. Let's go to  
23       Paragraph 21 of your report, Defendants'  
24       Exhibit 19. It's on Page 7. Let me know when  
25       you're there.

1 A. I'm there.

2 Q. All right. In this paragraph, you  
3 identify several biological components that  
4 comprise a person's sex, right?

5 A. Correct.

6 Q. All right. You identified the sex  
7 chromosomal type. That's the XX and XY  
8 karyotyping that we've been discussing today,  
9 right?

10 A. Correct.

11 Q. The SRY gene, right? That's  
12 another one that you identify, right?

13 A. Correct.

14 Q. Hormonal -- a mix of the hormones  
15 and the accompanying sex characteristics,  
16 right?

17 A. Correct.

18 Q. Size of the gametes, that's another  
19 one?

20 A. Yes.

21 Q. Gender identity, right?

22 A. Yes.

23 Q. And then gonad type, right?

24 A. Correct.

25 Q. Okay. Aside from the brain studies

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1       that we talked about, the functional MRI  
2       studies, do you have any other scientific basis  
3       for your contention that gender identity is  
4       biological?

5                  MS. INGELHART: Objection. Asked  
6       and answered. You can answer.

7                  THE WITNESS: There were some other  
8       studies I cited about gene mutations that are  
9       more common amongst trans people. There's the  
10      twin study that I mentioned earlier where  
11      identical twins are much more likely to be  
12      concordant for being transgender than fraternal  
13      twins.

14               Q.       Anything else?

15               A.       There was the one study that I  
16       cited that said that trans people are more  
17       likely to have chromosomal aberrations. Still  
18       not likely to, but more likely than cisgender  
19       people.

20               Q.       Does the gene mutation mean that  
21       you will -- well, is the gene mutation  
22       determinative of gender -- of having a gender  
23       identity that is incongruent with your  
24       biological sex?

25               MS. INGELHART: Objection.

1                   THE WITNESS: Do you mean is it  
2 like Punnett square kind of genetics where you  
3 have the big D and so you have that  
4 characteristic? No. It's much more complex  
5 than that.

6                   Q. It's just -- the study just said  
7 there's a higher tendency among transgendered  
8 folk to have this particular mutation, right?

9                   A. That among cisgender people. So  
10 that's a gene that we think that might have  
11 some influence on development of gender  
12 identity, yes.

13                  Q. And the twin studies, obviously, it  
14 was a correlation, higher in maternal twins  
15 versus fraternal twins would have this tendency  
16 towards, right?

17                  A. It's identical versus fraternal.

18                  Q. Okay.

19                  A. So identical twins share the same  
20 genetics, same prenatal environment, same  
21 postnatal environment, I mean, unless they're  
22 separated. Fraternal twins are as genetically  
23 similar as brothers and sisters, so they share  
24 a lot of genetics, but not all of them, but  
25 they also share the same prenatal environment,

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1       the same postnatal environment, and so -- and  
2       that's a very common way of determining how  
3       genetically influenced a characteristic is is  
4       by doing that comparison.

5           Q.     Do you know the sample size of the  
6       twin studies?

7           A.     I think it was like over 20, less  
8       than a hundred.

9           Q.     And did the studies find that every  
10      time one of the identical twins was  
11      transgendered, the other twin would be  
12      transgendered?

13          A.     No.

14          Q.     It would just -- there was just a  
15      higher propensity?

16          A.     Right. And from that, you can  
17      calculate the variability.

18          Q.     And then chromosomal aberrations,  
19      those are the DSDs we talked about?

20          A.     Well, they're in -- the one  
21      particular study that I'm thinking about, they  
22      just took trans people who presented for care  
23      who had not previously been diagnosed with a  
24      DSD, and they said let's karyotype everybody  
25      with the idea of the study being to figure out,

1       gee, should we karyotype everybody who presents  
2       as trans wanting gender confirmation  
3       treatments. And they found that the percentage  
4       was higher. I think amongst trans women, it  
5       was, like, three percent than the cisgender  
6       population, though -- so I guess at that point,  
7       you would say, gee, those people do have a form  
8       of DSD, but it was amongst people who had a  
9       gender dysphoria or at the time gender identity  
10      disorder diagnosis who then were discovered to  
11      have the DSD because they presented as trans.

12           Q.     And, again, not everyone with that  
13      chromosomal aberration is going to present as  
14      transgendered?

15           A.     Correct.

16           Q.     I mean, you said three percent, so  
17      a very small portion of those people?

18           A.     It -- it's a small portion of trans  
19      people that have those aberrations, but then  
20      it's a different question to say of people who  
21      have this aberration, what percentage are  
22      trans, and the study didn't assess that.

23           Q.     And you don't know that answer?

24           A.     No.

25           Q.     But it's not all?

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1 A. It's certainly not all.

2 Q. You recognize that gender identity  
3 is shaped by a person's early environment,  
4 right?

5 MS. INGELHART: Objection. Vague.

6 THE WITNESS: It's shaped by their  
7 prenatal environment and probably to an extent  
8 by their early postnatal environment.

9 Q. All right. So if you look at  
10 Paragraph 25, you say: In cases -- second  
11 sentence: In cases where they are incongruent,  
12 of these many biological characteristics, the  
13 single most important characteristic for  
14 identifying sex in an individual human being is  
15 their gender identity, which is determined by  
16 both genetics and early environment, including  
17 prenatal hormonal milieu?

18 A. Correct.

19 Q. "Milieu" or "milieu"?

20 A. "Milieu."

21 Q. I hate that word.

22 All right. So let me ask you  
23 again: You admit that gender identity is  
24 shaped by a person's early environment, right?

25 A. Very early environment, yes.

1           Q.        Okay. And when you define gender  
2         identity in Paragraph 14 of your report, you  
3         don't describe it in biological terms at all,  
4         do you?

5           MS. INGELHART: Objection.  
6         Misstates and mischaracterizes prior testimony  
7         and declarative testimony.

8           THE WITNESS: In the medicalized  
9         sense of this, gender identity is a symptom you  
10       use to diagnose gender dysphoria, one of -- you  
11       know, they also have to have the dysphoria too.  
12       And so it's something you assess, but it is  
13       something that's biologically based because our  
14       brains are biological entities.

15          Q.        Which of the other sex  
16         characteristics you identified in Paragraph 21  
17         are shaped by early environment?

18          A.        The hormonal milieu, gender  
19         identity, and all the things that I said were  
20         influenced by the hormonal milieu.

21          Q.        Okay. None of these other sex  
22         characteristics besides gender identity are  
23         dependent upon the internal sense of one's  
24         self, right?

25          A.        Can you say that again?

1           Q.       Yeah.  None of the other sex  
2 characteristics that you identify in  
3 Paragraph 21 besides gender identity are  
4 dependent upon the internal sense of one's  
5 self, right?

6           MS. INGELHART:  Objection.

7           THE WITNESS:  Those influence the  
8 internal sense of one's self, but you can have  
9 an SRY gene or not have one and have a gender  
10 identity that is male, female or somewhere  
11 along the spectrum, but most of the time, if  
12 you have an SRY gene, you're going to have a  
13 male gender identity.  So you could say  
14 something influences it, but doesn't, in all  
15 cases, determine it.

16          Q.       So they're not dependent upon the  
17 internal sense of one's self?

18          MS. INGELHART:  Objection.  Vague.

19          THE WITNESS:  The internal sense of  
20 one's self can be dependent on them.

21          MR. BLAKE:  Okay.

22          MS. INGELHART:  Excuse me.  May we  
23 take another break?

24          MR. BLAKE:  Sure.

25          (Recess taken.)

1           Q.     Do you agree that sex is assigned  
2     at birth and refers to one's biological status  
3     as either male or female and is associated  
4     primarily with physical attributes, such as  
5     chromosomes, hormone prevalence and external  
6     and external anatomy?

7           MS. INGELHART: Objection.  
8 Compound.

9           THE WITNESS: I think sex as  
10    assigned at birth is influenced by genital  
11    anatomy, and you usually don't have the other  
12    information available to you.

13          Q.     So you disagree with that  
14 statement?

15          MS. INGELHART: Objection.  
16 Mischaracterizes.

17          THE WITNESS: Yes.

18          Q.     Do you agree that gender refers to  
19     the socially constructed roles, behaviors,  
20     activities and attributes that a given society  
21     considers appropriate for boys and men or girls  
22     and women?

23          A.     I think that's gender expression.

24          Q.     So you disagree with that statement  
25 too?

1           A.     It's not completely accurate, but I  
2     could see how somebody would make that  
3     statement.

4           Q.     If you go to Paragraph 37 of your  
5     report, Defendants' Exhibit 19.

6           A.     Okay. I'm there.

7           Q.     Gender identity is immutable  
8     characteristic in adolescence and adults and  
9     not merely feeling like the opposite sex, as  
10    Dr. Van Meter suggests.

11           Do you see that?

12           A.     I do.

13           Q.     What forms the basis of your  
14    opinion that gender identity is immutable?

15           A.     There are research studies that  
16    show that in late adolescence and adults,  
17    gender identity is fairly accurately assessed  
18    in the sense of providing people transgender  
19    care, and that's why there are very few people  
20    who detransition.

21           Q.     What research studies?

22           A.     European studies, mostly.

23           Q.     Do you have --

24           A.     I mean -- well, I will tell you  
25    there's one study, it's older, but it looks at

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1       regret, which is a way to reflect. Visions may  
2       change with their expressed gender identity.  
3       It's called Pfafflin & Junge. There was  
4       basically a systematic review of a bunch of  
5       other studies, and they found a very low regret  
6       rate. I don't know if there's a systemic  
7       review after that, but there's individual  
8       studies that show very low regret rates.

9           Q.     You can't name any of the other  
10      studies, though?

11          A.     I mean, I can name the centers  
12      where they were done.

13          Q.     Okay. Go ahead.

14          A.     The Netherlands and Sweden have  
15      basically one center that does their gender  
16      treatment for the whole country. It's, like, a  
17      tertiary referral center, and they publish  
18      every so often in the literature and they both  
19      report very low regret rates.

20          Q.     So you are using what you have  
21      called low regret rates as a synonym for  
22      immutable characteristic?

23          A.     People who regret having  
24      transitioned are often not incorrect about  
25      their gender identity, but there are an

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1       occasional few people who subsequently state  
2       no, my gender identity is different, and those  
3       two groups of people, those who don't state  
4       their gender identity is different, but they  
5       regret having transitioned, and those who state  
6       no, my gender identity is different together  
7       comprise a very small percentage, and that  
8       tells me that this is pretty accurate.

9           Q.       But not immutable for those people,  
10          right?

11                   MS. INGELHART: Objection.  
12          Misstates.

13                   THE WITNESS: The ones who  
14       transition back because, like my experience  
15       with the few patients that I've treated, the  
16       gender identity isn't changed, it's the same,  
17       they just realize that it's really hard being a  
18       trans person. The ones who say no, my gender  
19       identity is not what I said two years ago, I  
20       haven't personally treated them and I haven't  
21       read any psychological description of them, but  
22       I don't -- in those cases, I don't know. I  
23       think there are a lot of things that would  
24       motivate people to state their gender identity  
25       is one way or the other, which is why people

1 may not transition until a certain point in  
2 adulthood.

3 Q. And I think you said earlier, you  
4 had not read any studies conducted on these  
5 people who detransitioned, right?

6 A. Not that I can recall.

7 Q. And other than the Pfafflin & Junge  
8 study, you can't recall any specific other  
9 studies related to the immutability of gender  
10 identity, right?

11 A. The studies I quoted were about  
12 regret, and in that group, you could say the --  
13 the -- that group comprises the upper limit of  
14 what that could be.

15 Q. So it's based on the low incidence  
16 of regret that you understand from your review  
17 of the literature that you've concluded that  
18 gender identity is immutable?

19 A. And my clinical experience of  
20 people who regretted that they -- you know,  
21 they'll say I -- I feel the same. I feel the  
22 same way, I just can't be a trans person. It's  
23 too hard.

24 Q. Are you aware of any studies that  
25 have linked low incidence of regret to

1        immutability of gender identity?

2            A.        There are studies that -- I don't  
3        want to say this wrong -- that have looked at  
4        regret rates, and I think that the biggest  
5        thing was surgical outcome, like how well the  
6        surgery went, but I think there were a couple  
7        of other psychological characteristics that may  
8        have predicted that. I can't tell you exactly  
9        what they were, but that's not -- that's  
10      assessment of the patient has gender dysphoria,  
11      which determining what their gender identity is  
12      is part of that.

13           Q.        Which is different than whether or  
14        not gender identity is immutable. Whether or  
15        not they have gender dysphoria is a different  
16        question, right?

17           A.        Because it's something that is an  
18        internal feeling, there's no way you can say  
19        absolutely for certain. I could ask you what  
20        your gender identity is and you could say it's  
21        male, but I'm not a hundred percent certain of  
22        that, and there are a lot of people who've said  
23        yes, I'm male. I'm going to do all these  
24        incredibly masculine things when, deep down,  
25        that wasn't what their gender identity was. So

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1       it's -- I think the question of immutability  
2       is -- is not something that you can really  
3       assess perfectly, but you can look at things  
4       that reflect it.

5           Q.     If you go to Paragraph 30 of your  
6       report, let me know when you're there.

7           A.     Okay.

8           Q.     In that paragraph, you reference a  
9       study that found that having an identity  
10      document that matched their gender identity  
11      reduced the risk of suicide, right?

12          A.     Correct.

13          Q.     Do you know how that study was  
14      conducted?

15           MS. INGELHART: Vague. Objection.

16           THE WITNESS: I know it was a  
17      Canadian population. I know it was  
18      retrospective, and I think it was a survey.

19          Q.     Do you know if it was -- do you  
20      know if the participants in the study  
21      volunteered for the study?

22          A.     All study participants have to  
23      volunteer. I mean, if you're doing medically  
24      ethical research, you can't have  
25      non-volunteered people in your study.

1           Q.     Well, that's not true in every  
2       country. I mean, countries like Sweden where  
3       they have access to everybody's medical  
4       information, they can just sample the medical  
5       information and figure out certain risks and  
6       illnesses that come out of that -- out of that  
7       population if they want, but...

8           A.     But the type of study where you ask  
9       people to fill out a form and answer questions  
10      about themselves, that, you have to get --

11          Q.     So this was, as far as you know,  
12      the population of the study was volunteer,  
13      right?

14          A.     Because it would have to be, yes.

15          Q.     And do you know whether or not the  
16      study involved a control group?

17          A.     I think the -- essentially, the  
18      control group is those who did not have an  
19      identity document, so you're comparing what is  
20      the benefit of having an identity document  
21      versus the group that doesn't have identity  
22      documents.

23          Q.     Do you know whether the study  
24      controlled for the type of identity document?

25          A.     I know they listed -- when they

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1 described it, they said an identity document,  
2 for example, and they listed several possible  
3 identity document.

4 Q. But you don't know whether the  
5 study itself looked at outcomes based on the  
6 type of identity document that was incongruent,  
7 right?

8 A. Oh, you mean, like student ID  
9 versus driver's license?

10 Q. Sure.

11 A. I don't believe they were that, no.

12 Q. And do you know whether the study  
13 was conducted just on people from Ontario or  
14 Canada or do you know if the study included  
15 people from other countries?

16 A. I know it was just Canada. I can't  
17 remember the province, so...

18 Q. Are you aware of any similar study  
19 that's been conducted in the United States?

20 A. No.

21 Q. Do you know whether transgendered  
22 individuals who were born in Ohio have a higher  
23 or lower rate of suicide than transgendered  
24 individuals born in other states?

25 A. No.

1 Q. Could be higher?

2 A. Certainly.

3 Q. Could be lower?

4 A. Certainly.

5 Q. You just don't know?

6 A. Yeah. I haven't read that or read  
7 a study about that, although the National  
8 Transgender Discrimination Survey might have  
9 had something about that. I don't know. I  
10 know they assessed --

11 Q. Sorry. That's the what again?

12 A. The National Transgender  
13 Discrimination Survey.

14 Q. Who publishes that?

15 A. Well, it was -- it's a data set  
16 that was created by the National Center of  
17 Transgender Equality, and I couldn't tell you  
18 exactly who else, but it was a national survey  
19 of trans people. And they published, but also  
20 they make their data set available to other  
21 researchers, so there are other studies that  
22 are published that are sub-studies from that.

23 Q. Do you have access to that  
24 information?

25 A. No. I could, but...

1           Q.     Have you looked at that  
2 information?

3           A.     I've looked at the -- their -- the  
4 main presentation of the data and I've read at  
5 least one article that was done by researchers  
6 on the data set that was subsequent, and I  
7 think there was also one that was based on  
8 transgender people of color, specific to that,  
9 to subsets of it.

10          Q.     And you think it's possible that  
11 that survey contains information related to  
12 suicide rates of transgendered people from  
13 Ohio?

14          A.     It definitely looks at suicide  
15 rates, and I -- they assessed the state that  
16 people were in, and so -- and I don't know if  
17 they assessed state of birth, I'm not sure, but  
18 it's certainly possible.

19          Q.     Okay. Do you know whether the  
20 Ontario study controlled for people who had a  
21 diagnosis of gender dysphoria?

22          A.     I don't recall from the paper.

23          Q.     Do you know whether the study  
24 controlled for people in varying stages of  
25 transition?

1           A.       Again, I don't recall 'cause I  
2 haven't read it super recently.

3           Q.       Do you believe that a diagnosis of  
4 gender dysphoria should be required before a  
5 person is able to change the sex marker on his  
6 or her birth certificate?

7           MS. INGELHART: Objection. Calls  
8 for a legal conclusion. You can answer.

9           THE WITNESS: I don't think that's  
10 the best way to do it because I think that  
11 delays patient access to a very important  
12 treatment.

13          Q.       Do you know whether the plaintiffs  
14 in this case have received a diagnosis of  
15 gender dysphoria?

16          A.       I don't know if it's in the  
17 complaint, but I wouldn't know if it's not in  
18 the complaint.

19          Q.       Do you agree that the diagnosis of  
20 gender dysphoria is the distress a person feels  
21 due to a conflict between their gender identity  
22 and their sex assigned at birth?

23          A.       Yes, as much as sex assigned at  
24 birth reflects how society treats you and the  
25 expectations it has for you.

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1 Q. And a person's gender identity does  
2 not determine their sex at birth, right?

3 MS. INGELHART: Objection. Vague.  
4 You can answer.

5 THE WITNESS: I think a person's  
6 gender identity is the best way to determine  
7 the marker that should be on their birth  
8 certificate, but I think that you can't assess  
9 that at birth. So that's not how you -- you  
10 can't do that prospectively, but you can do it  
11 retrospectively.

12 Q. Do you believe that a person should  
13 undergo a certain amount of transition before  
14 requesting a change to the sex marker on their  
15 birth certificate?

16 A. I think social transition is one of  
17 the first things people do, and getting gender  
18 marker changes is an important part of that, so  
19 that's kind of one of the first steps.

20 Q. You think that having your sex  
21 marker on your birth certificate changed is a  
22 part of the social transition?

23 A. All of the gender markers on your  
24 identity documents.

25 Q. You agree that no amount of gender

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1       transition can change a person's chromosomes,  
2       right?

3           A.     Correct.

4           Q.     And no amount of gender transition  
5       can change the sex of the individual as  
6       identified by the medical provider at the time  
7       of birth, right?

8                  MS. INGELHART: Objection. Vague.  
9       You can answer.

10               THE WITNESS: I think in the case  
11       of people who are transitioning and the medical  
12       provider at birth made a mistake, a very  
13       understandable mistake because you're playing  
14       the odds at that point, and so I think the sex  
15       assigned at birth is the incorrect data point.

16               Q.     And that's not changed, obviously,  
17       right?

18                  MS. INGELHART: Objection.

19               THE WITNESS: What they did in the  
20       past?

21               Q.     Correct.

22               A.     You can't change the past. I mean,  
23       that's -- time flows in one direction.

24               Q.     Do you know how many times each of  
25       the plaintiffs in this case have been required

1 to disclose their birth certificates?

2 A. I know from reading the complaint  
3 that, as I recall, there's a couple of  
4 instances where they said that there were. I  
5 don't know how many total they have, but I know  
6 it's at least the number that were in the  
7 complaint.

8 Q. Are you familiar with the  
9 circumstances for each of the disclosures?

10 A. Just as much that's in the  
11 complaint.

12 Q. Do you know whether any of the  
13 plaintiffs feared physical harm when they  
14 disclosed their birth certificate?

15 A. When they initially disclosed it or  
16 when they got the negative consequences of  
17 disclosing it?

18 Q. When they disclosed their birth  
19 certificate in the circumstances described in  
20 the complaint.

21 A. I think they describe being  
22 fearful. Like, for example, the woman who's a  
23 truck driver who had to leave her job because  
24 of that.

25 Q. Do you know whether she feared

1 physical harm?

2 MS. INGELHART: Objection.

3 Foundation. Asked and answered.

4 MR. BLAKE: I'm asking for the  
5 foundation, does he know.

6 THE WITNESS: Well, she said that  
7 somebody threatened to, quote, beat her ass, so  
8 I would be afraid of that. I think most people  
9 would. And I think trans people have a good  
10 sense of how dangerous these situations can be.

11 Q. So other than the circumstances  
12 described in the complaint, are you aware of  
13 any other instances where any of the plaintiffs  
14 feared physical harm as a result of disclosing  
15 their birth certificate?

16 A. No.

17 MS. INGELHART: Objection.

18 Speculation.

19 Q. Do you believe that the medical  
20 provider erred when they identified and  
21 recorded the sex at the time of birth on each  
22 of the plaintiffs' birth certificates?

23 A. An understandable error, but yes.

24 Q. Do you believe that medical  
25 providers should be required to conduct any

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1       additional medical procedures to determine a  
2       child's sex at birth?

3                  MS. INGELHART: Objection. Calls  
4       for a legal conclusion. You can answer.

5                  THE WITNESS: If there's ambiguity,  
6       that's generally done. There's no way you can  
7       assess for what somebody's adult gender  
8       identity is going to be outside of the cases of  
9       children with DSDs, and so I don't think that's  
10      possible then.

11                 Q.       What is, in your opinion, the rate  
12       of chromosomal abnormalities in the XX or XY  
13       karyotype in the general population?

14                 MS. INGELHART: Objection.  
15       Speculation. You can answer.

16                 THE WITNESS: I think I said it  
17       somewhere in my report, but I think it's, like,  
18       one in 500, one in a thousand, somewhere there.

19                 Q.       Okay. And then for transgender  
20       people, do you think there's a different rate?

21                 A.       There was the one study that --  
22       there is only one study that I know that looked  
23       at karyotypes and there was a higher rate. It  
24       was three percent amongst trans women and less  
25       than that, but I can't remember what it was for

1 trans men.

2 Q. Okay. So you'd agree, then, that  
3 it's rare for someone to have one of those  
4 abnormalities, right?

5 A. Correct.

6 Q. Transgendered or cisgendered?

7 A. Correct.

8 Q. And there's no evidence suggesting  
9 that any of the plaintiffs have one of those  
10 abnormalities, right?

11 MS. INGELHART: Objection.

12 Speculation. You can answer.

13 THE WITNESS: By virtue of the fact  
14 that they're trans, their chance is higher, but  
15 if you're playing the odds, if you're going to  
16 bet on this, I would bet no.

17 Q. Yeah. I mean, at the most, it's  
18 three in a hundred, right?

19 A. Yeah. So there's a one in 30  
20 chance that --

21 Q. So you can't be certain. There is  
22 a 97 percent chance that each of the plaintiffs  
23 have a normal karyotype that matches their  
24 other biological sex characteristics, right?

25 MS. INGELHART: Objection. Vague.

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1                   THE WITNESS: Ninety-seven percent  
2 is reasonable, yeah.  
3                   - - - - -  
4                   (Thereupon, Deposition Exhibit 23,  
5 Rebuttal Expert Report, was marked  
6 for purposes of identification.)  
7                   - - - - -  
8                   Q. You've just been handed an exhibit  
9 marked as Exhibit 23, which is the rebuttal  
10 expert report of Dr. Quentin Van Meter  
11 regarding the expert report of Dr. Randi C.  
12 Ettner, Ph.D. do you see that?  
13                  A. I do.  
14                  Q. Is this one of the documents that  
15 was provided to you prior to today's  
16 deposition?  
17                  A. Prior to today, yes, but not prior  
18 to my report.  
19                  Q. Yeah. This actually came out at  
20 the same time that your report was written, so  
21 it would have been impossible for you to review  
22 prior to that.  
23                  If you turn to the second page,  
24 look at Paragraph 10. It says: In truth,  
25 there are no valid published studies that find

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1       a biological basis for gender identity, and  
2       Dr. Ettner does not cite to any such studies in  
3       her expert report.

4                   Do you see that?

5       A.       I do.

6       Q.       Do you agree with that conclusion?

7       A.       The second sentence about  
8       Dr. Ettner not citing, I would have to go  
9       through her report and look for it.

10      Q.       It either does or it doesn't?

11      A.       Correct.

12      Q.       What about the first sentence?

13      A.       The first sentence, I don't think  
14       that's correct.

15      Q.       Okay. What -- what valid published  
16       studies find a biological basis for gender  
17       identity?

18      A.       As an example, Milton Diamond's  
19       twin study that I cited.

20      Q.       Okay. So this is the twin study,  
21       the functional MRI study?

22      A.       No.

23      Q.       No. All right. When ones are  
24       they?

25      A.       It's the twin study that compared

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1 identical versus fraternal twins for  
2 concordance as far as transgender status.

3 Q. Is that the only one that you're  
4 aware of?

5 A. There was some other studies that I  
6 cited that showed a gene that was more common  
7 amongst transgender people.

8 Q. Which studies?

9 A. If you go to Page 13 of my report,  
10 Citation No. 6 are a few examples.

11 Q. The sex steroid related genes in  
12 male to female transsexualism?

13 A. Yeah. There's a few, but they're  
14 in there.

15 Q. Oh, it's all the ones in  
16 Footnote 6?

17 A. And five.

18 Q. And five. Okay. Any other ones?

19 A. There may be more out there. I  
20 could do a literature search, but these are the  
21 ones that come to mind.

22 Q. These are the ones that you're  
23 aware of?

24 A. Correct.

25 Q. And you relied on those in forming

1       the opinions in your report?

2           A.     I did.

3           Q.     Okay. Paragraph 11 of  
4     Dr. Van Meter's rebuttal report,  
5     Defendants' 23: Dr. Ettner states elsewhere in  
6     Paragraph 20 that the gender identity is  
7     determined merely by the statement of the  
8     adolescent or adult. Mere statements by the  
9     individual, obviously, do not indicate a  
10    biological basis for gender identity, nor do  
11    such statements indicate that gender identity  
12    is immutable.

13                  Do you agree with the conclusion  
14    that Dr. Van Meter makes in Paragraph 11?

15           A.     Could I look at Dr. Ettner's  
16    report, her Paragraph 20?

17           Q.     You sure can.

18                  MR. BLAKE: Just take a quick  
19    break. I'll run and get it.

20                  (Recess taken.)

21           Q.     I've just handed you what's been  
22    previously marked as Defendants' 11,  
23    Exhibit 11, which is a copy of the report  
24    authored by Dr. Randi Ettner in this matter.  
25    If you turn to Page 5 of the report,

1       Paragraph 20, you can read it there.

2           A.        Okay.

3           Q.        So if you turn back to  
4       Paragraph 11, Dr. Van Meter's rebuttal, do you  
5       disagree with the first -- or do you agree with  
6       the first sentence in Paragraph 11?

7           A.        There are a lot of things in  
8       medicine that depend on subjective and  
9       objective data. So, for example, if somebody  
10      comes in with a kidney stone to the ER and they  
11      say their -- we ask them to rate their pain,  
12      how bad is your pain, it's a nine out of ten.  
13      But then I also look at them, they're sweating,  
14      they're writhing around on the table, and those  
15      things correspond. There's no conflict between  
16      the two. If that same person says nine out of  
17      ten and they're sitting there posting on  
18      Twitter or playing a video game, it makes you  
19      think, gee, why don't these things coincide.

20                  In the case of what Dr. Ettner said  
21      is you assess the person's gender identity by  
22      self-disclosure, it's not just I'm a boy, I'm a  
23      girl, it's disclosure of, oftentimes, a lot  
24      more nuanced bit of data, but it is subjective,  
25      however, you use that subjective data with

1       objective data. You know, if a person is  
2       obviously responding to internal stimuli and  
3       you think they might be psychiatric, maybe you  
4       say, well, gee, let's address that first and  
5       then see if this changes, right. And that's a  
6       rare instance where somebody may state they  
7       have a gender identity that's different. So  
8       disclosure is a lot more complicated than I'm a  
9       boy, I'm a girl, however, it is a subjective  
10      experience, just like pain is.

11           Q.     So do you agree with Dr. Ettner  
12       when she says it is detectable by  
13       self-disclosure and in adolescents and adults?

14           A.     Yes.

15           Q.     So do you agree with, then, what  
16       Dr. Van Meter says in Paragraph 11 where he  
17       says mere statements by the individual,  
18       obviously, do not indicate a biological basis  
19       for gender identity? Do you agree with that  
20       statement?

21           A.     No, I don't.

22           Q.     Okay. Nor do such statements  
23       indicate that gender identity is immutable. Do  
24       you agree with that statement?

25           A.     I don't think that follows from

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1 saying gender identity is subjective. You can  
2 have subjective things that change or don't  
3 change. In this case, I don't think gender  
4 identity in adults or -- and later, adolescents  
5 appreciably changes, so I don't think it's the  
6 case that -- but I don't think that follows  
7 from the same data.

8 Q. How does a statement by an  
9 individual -- or how does a self-disclosure of  
10 gender identity in an adolescent or adult  
11 indicate a biological basis for gender  
12 identity?

13 A. Every feeling, emotion and thought  
14 we have is because of our brain, and so -- I  
15 mean, it's like the American Psychiatric  
16 Association's constant drumbeat, depression is  
17 a disorder of chemistry, not character, right.  
18 So if someone says my gender identity is  
19 whatever, that's a function of the brain, it's  
20 not -- you know, we don't assess supernatural  
21 or things like that in medicine. You know,  
22 gender identity is a function of your brain, so  
23 obviously, that's biological. All of  
24 psychiatry is biological.

25 Q. And you think a person's statement

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1       about their gender identity necessarily  
2       indicates that there is a biological basis for  
3       their gender identity?

4                     MS. INGELHART: Objection.

5       Misstates and mischaracterizes, but you can  
6       answer.

7                     THE WITNESS: You can't have a  
8       gender identity except as a function of your  
9       brain. It's -- it is a -- I mean, our brains  
10      produce the feelings that we experience, the  
11      thoughts that we have, the words that we say.  
12      Our identity -- our gender identity, our  
13      identity is -- you know, my identity as a  
14      physician, your identity as an attorney, those  
15      are all functions of our brain, and so by  
16      definition, that's biology.

17                  Q.       To use your example, the person  
18      who's indicating a pain of nine while they're  
19      on their phone tweeting or texting or doing  
20      whatever, they're not being honest with what  
21      their biological response is happening at that  
22      moment, right?

23                  A.       I like to think of them as not  
24      being dishonest, but having an incomplete  
25      understanding of the question I'm asking. And

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1       so, I mean, yeah, sometimes people lie to you,  
2       but you can figure that out. And so it's  
3       not -- it's not -- like assessing pain, it's  
4       not just saying, gee, what is your pain on a  
5       zero-to-ten scale, there's a lot more into  
6       doing that. And when Randi's talking about  
7       self-disclosure, it's not just check the box  
8       male or female, it's, well, tell me about this.  
9       When did you first feel this? You know, did it  
10      change at all during adolescence? How do you  
11      experience it now? Do you experience it the  
12      same way in different context? I mean, it's a  
13      lot more than just saying -- or, you know,  
14      check one box male or female.

15           Q.     And you think that that more  
16      detailed psychological evaluation indicates a  
17      biological basis for gender identity, then?

18           MS. INGELHART: Objection.

19           Mischaracterizes. Go ahead.

20           THE WITNESS: I think, and this is  
21      something maintained by both APAs, that our  
22      identities, our mental health problems, if we  
23      have them, they're biologically based, you  
24      know. It's -- depression is a disorder of  
25      chemistry. When we drink an alcoholic

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1 beverage, it's not that our soul gets drunk,  
2 it's that our brain gets drunk.

3 Q. If you read Paragraph 12 of  
4 Dr. Van Meter's expert report, he says: In  
5 addition, both the APA handbook and the DSM-5  
6 state that there is no biological basis for  
7 gender identity.

8 Do you disagree with that  
9 statement?

10 A. I -- actually, when I read this, I  
11 reread the DSM-5 section about that, and I  
12 don't find that there, so I do disagree with  
13 that.

14 Q. Okay. If you go to Paragraph 14 on  
15 the next page. And starting with the second  
16 sentence: Dr. Kenneth Zucker and others have  
17 published studies from clinical experience that  
18 show between 80 and 98 percent of gender  
19 incongruent patients return to identification  
20 with their biologic sex if evaluated and  
21 counseled consistently through natural puberty  
22 to adulthood, and none of these patients were  
23 subject to aversion, treatments or electroshock  
24 therapy.

25 Are you familiar with Dr. Zucker's

1 study?

2 A. Yes, and Dr. Zucker.

3 Q. Do you agree with his conclusions  
4 of his study?

5 A. I don't agree with the way that  
6 Dr. Van Meter states that, and I don't think  
7 Ken would be either. Ken's a pediatric  
8 psychologist, and so when he talks about  
9 desistance, it's among kids. If -- I mean, I  
10 know Ken and I've talked to him. If you ask  
11 him does he think an 18-year-old person who is  
12 transgender, is there a way to change that  
13 person, no. It is the case, and Ken has noted,  
14 just as, you know, every other pediatrician  
15 that I know who treats trans kids has noticed  
16 that it's not fixed until the early part of  
17 puberty. And so there are -- you know, people  
18 come up with different percentages that they  
19 think persist and desist, but this is  
20 prepubertal children, and Ken doesn't think  
21 that adults can change. I mean, he doesn't  
22 support reparative therapy for adults.

23 Q. Do you agree with Dr. Van Meter  
24 that this demonstrates that gender identity is  
25 not immutable, and, in fact, is fluid during an

1 individual's life?

2           A.     It's like we talked about before,  
3 there are things that tend to push children in  
4 one direction or the other, and those things  
5 can be present from the moment of conception,  
6 but childhood is a huge developmental time, and  
7 so children may be very fluid about their  
8 gender in childhood. I mean, Ken's method of  
9 treating children before he was taken out of  
10 his position at CAMH -- that's C-A-M-H, it's an  
11 abbreviation -- was that you don't treat  
12 children adversely for doing gender  
13 nonconforming behavior, but you praise them for  
14 gender conforming behavior, which, I mean, kids  
15 aren't that dumb. They're going to kind of  
16 know that the parents have a preference. If  
17 you -- so he's different than a lot of other  
18 people, like Norm Spack at Boston Children's or  
19 Joe Olsen at Children's Hospital LA. Their way  
20 of dealing with this is, look, let the kid be  
21 who they feel like they are. Don't impose any  
22 of your ideas on them. Let the kid figure out  
23 who they are because that's a lot of what  
24 childhood is and adolescence is is figuring out  
25 who you are. And protect your kid and praise

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1       your kid no matter what they do as long as what  
2       they're doing is not bad or dangerous. And so  
3       he's a little different in how he treated kids,  
4       but nobody disagrees that adolescence isn't the  
5       sort of point where that's determinable, later  
6       adolescence.

7           Q.     If you go to paragraph 15, it says:  
8       Moreover, actual published studies show a  
9       19-fold increase in completed suicides in those  
10      who completed the entire gender affirmation  
11      process (social affirmation, medical treatment  
12      and surgical manipulation).

13                  Do you agree with that sentence?

14           A.     Given the 19-fold, I'm pretty sure  
15      he's referring to Cecilia Dhejne's study from  
16      2011 or 2012 that is often misquoted, and she  
17      gets very upset when that happens because the  
18      study was just do trans people, after  
19      treatment, need more mental health care, you  
20      know, have more indication for it. It wasn't  
21      an assessment of whether or not the treatment  
22      worked. In fact, her -- in her discussion  
23      section, she said, look, if you look at people  
24      who have bipolar disorder or schizophrenia who  
25      are treated the way we treat people with

1 bipolar disorder and schizophrenia and you look  
2 at them afterwards, they have a greater risk of  
3 these same types of morbidity, suicidal  
4 ideations, psychiatric hospitalizations, but it  
5 doesn't follow that the antipsychotics or the  
6 mood stabilizing agents were the cause. In  
7 fact, it might have been worse if you hadn't  
8 treated them. So she specifically says in the  
9 study you cannot look at this as an assessment  
10 of whether or not these treatments work.

11 And, in fact, the same group, the  
12 same patient group, they -- it wasn't --  
13 Cecilia wasn't in this one, but it was the same  
14 center published like this month in the  
15 American Journal of Psychiatry and actually  
16 looked at the question of does it help, and  
17 they found that getting surgery definitely  
18 didn't help. In fact, on average, your need  
19 for mental health treatment decreased eight  
20 percent per year after you had your last  
21 surgery.

22 Q. Do you know whether the study has  
23 been conducted comparing those who have gone  
24 through transition or gender affirmation  
25 process with those who -- I think the term you

1       used was desistance; is that right?

2           A.     Desistance.

3           Q.     Desistance. So let's start over.

4                   Do you know whether this study that  
5       showed the 19-fold increase, whether that group  
6       has been compared to those who have desisted?

7           A.     That study -- the study that he's  
8       referring to and the study I just mentioned are  
9       all in adult patients, so adolescent desistance  
10      isn't pertinent. I mean, nobody's going to  
11      desist after the onset of the study.

12                  They did, in the other study, the  
13      one that was just recently published, looked at  
14      people who had not yet gotten treatment  
15      compared with people who had gotten treatment  
16      and they compared their mental health outcomes.

17           Q.     Are you aware of a study looking at  
18      people who have desisted and looking at their  
19      suicide rates?

20           A.     Oh, at their suicide rates? No. I  
21      think Peggy Cohen-Kettenis,  
22      C-o-h-e-n-K-e-t-t-e-n-i-s, that might be the  
23      correct spelling, something like that, her  
24      group, I think, did a follow-up study on  
25      children who desisted, though I'm not sure if

1 | they assess suicide ideation.

2 Q. So do you agree or disagree with  
3 the statement that these studies indicate that  
4 gender incongruent patients who undergo  
5 appropriate treatment and return to  
6 identification with their biologic sex are at  
7 far less risk for suicide?

8           A.       I don't think there are any studies  
9        that looked at that.  And, no, that's not what  
10      the Dhejne study showed.  And it's D-h-e-j-n-e.

11           Q.       It's not how I wrote it in my  
12       notes. I was thinking of the former running  
13       back from Wisconsin, Ron Dayne.

14           A.       The only people who were studied,  
15       though, were people who were still treated at  
16       the clinic.

17 MR. BLAKE: I think I'm done.

18 MS. INGELHART: Can we go off the  
19 record for a moment?

20 (Recess taken.)

EXAMINATION OF RYAN GORTON, M.D.

22 BY MS. INGELHART:

23 Q. I'm going to ask you a few  
24 questions, Dr. Gorton. If you can remember  
25 that the court reporter's still sitting to your

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1 left, despite the fact that I'm on your right.

2 We just discussed -- or you just  
3 discussed the Dhejne study previously with  
4 Mr. Blake, right?

5 A. We did.

6 MR. BLAKE: Objection.

7 Q. Did you refer do another newer  
8 study as it relates to that one?

9 A. Yes.

10 Q. What study was that?

11 A. It was in this months American  
12 Journal of Psychiatry, and it was the same  
13 patient population group.

14 Q. Okay. I'd like to add that.

15 MS. INGELHART: I don't know what  
16 number exhibit plaintiffs we're on, but can we  
17 introduce this a plaintiffs' next exhibit?

18 - - - - -

19 (Thereupon, Deposition Exhibit A,  
20 Study, was marked for purposes of  
21 identification.)

22 - - - - -

23 Q. I've just placed in -- or had  
24 placed before you Plaintiffs' Exhibit A. Is  
25 that the study you were referring to?

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1 A. It is.

2 Q. Okay. Thank you.

3 In developing your report and your  
4 testimony and providing your testimony today,  
5 do you rely on your practical experience  
6 treating transgender patients?

7 A. I do.

8 Q. Is there a distinction between  
9 gender identity disorder and gender dysphoria?

10 A. Gender identity disorder was the  
11 nomenclature in DSM-IV, gender dysphoria is  
12 nomenclature in DSM-5, and there are a couple  
13 of differences in the diagnostic criteria.

14 Q. What are those differences?

15 A. For GID -- sorry. For gender  
16 dysphoria in adults and adolescents, from  
17 DSM-IV to DSM-5, they got rid of DSDs as a  
18 rule-out. That is it used to be the case that  
19 if you had a DSD, you couldn't be diagnosed  
20 with gender dysphoria, or, at the time, gender  
21 identity disorder, but now it's not considered  
22 a rule-out.

23 And then in the pediatric  
24 diagnosis, in the previous version and in this  
25 version, there are a list of diagnostic

1 characteristics. So, for example, does the kid  
2 say they have a gender identity that's  
3 different than the one they were assigned at  
4 birth? Do they typically play according to  
5 stereotypical games of that gender? Do they  
6 like to play with playmates of that same gender  
7 in the same way that girls typically like to  
8 play with girls and boys typically like to play  
9 with boys? The one big difference is that,  
10 previously, that the child says their gender  
11 identity is different wasn't the requirement.  
12 That is, you had to have -- it was either four  
13 out of five or five out of six things, and it  
14 could be any of them. So you could have a kid  
15 who doesn't identify as a gender different from  
16 their sex as assigned at birth, but who, you  
17 know, has gender atypical play and, you know,  
18 wears the clothes of the other gender and all  
19 these sort of behavioral characteristics. You  
20 could actually diagnose that kid with gender  
21 identity disorder without them identifying as  
22 being transgender in any way. The current one  
23 still has that same list and you still have to  
24 have -- it's either four out of five or five  
25 out of six, but one of them has to be the

1 child's identity.

2 Q. So does that mean that there are  
3 some children who could have been diagnosed in  
4 the past as having gender identity disorder,  
5 but wouldn't be diagnosed today as having  
6 gender dysphoria?

7 A. Yes. And I think that was actually  
8 a motivation for the change.

9 Q. Do you know anybody involved in  
10 that changed development?

11 A. Ken Zucker was the lead for the  
12 section on gender disorders in children. And  
13 he and I actually talked about it previously at  
14 some conference, and he very much wanted that  
15 change because he felt that, previously, you  
16 could take kids who just were gender  
17 nonconforming and inappropriately diagnose them  
18 as having gender identity disorder, and so that  
19 sort of diluted the group of children in that  
20 there's one group that, you know, maybe this  
21 kid is just going to be -- is just going to  
22 grow up to be a gender nonconforming adult but  
23 not trans identified, and then there's another  
24 subgroup that are kids who their chance of  
25 identifying as trans in adulthood is greater,

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1       and so if you get rid of ones that are just  
2       generally nonconforming, you'll have a more  
3       accurate diagnostic pool.

4           Q.     Is it possible that this tightening  
5       of nomenclature could -- or of diagnostic  
6       criteria could affect these rates of desistance  
7       of children that you've seen reported?

8           MR. BLAKE: Objection. Foundation.  
9       Speculation.

10           THE WITNESS: I think that is the  
11       case because you have a -- you know, the  
12       primary diagnostic criteria for gender  
13       dysphoria is do you think, feel that your  
14       gender identity is different from what you're  
15       assigned at birth, and I think that was  
16       actually one of Ken's motivations because he  
17       did see kids referred to him that just had  
18       gender non-normative behaviors and this kid is  
19       maybe going to grow up to be a gender  
20       nonconforming gay man, but he's not trans.

21           Q.     Is there a difference between  
22       desistance and detransition?

23           A.     Yes. Desistance is what you talk  
24       about in preadolescent children who their  
25       gender identity is fluid, it changes, and as

1       adults, they don't identify in a way that we  
2       would consider transgender. And  
3       detransitioning is something -- phenomenon you  
4       think about with adults where they've done  
5       something, they've done social, medical or  
6       surgical transition, and then they want to  
7       reverse part of that.

8           Q.     Is applying desistance to a  
9       discussion of adults medically reasonable?

10          MR. BLAKE: Objection. Vague.

11          Q.     Yeah. Is it -- is applying  
12       desistance -- yeah. Strike that.

13           Is applying discussion of  
14       desistance and that -- those data sets to adult  
15       populations a reliable way of understanding  
16       adult populations?

17          MR. BLAKE: Same objection.

18          THE WITNESS: You just don't talk  
19       about that with adults. That's like a  
20       pediatric phenomenon. So if you look at the  
21       pediatric literature, they talk about  
22       desistance rates, and it's all about kids, they  
23       grow up and they either do have or don't have  
24       that same cross-gender identity. And in  
25       adults, it's -- it's really about do you

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1 transition or detransition. So people don't  
2 talk about those the same way.

3 Q. Okay. In your expert opinion, is  
4 gender identity immutable?

5 A. In adults, yes.

6 Q. Is conversion therapy a treatment  
7 accepted by the mainstream medical  
8 establishment?

9 MR. BLAKE: Objection.

10 THE WITNESS: No. It's sort of  
11 fringe treatment that's nobody that treats  
12 trans people that I know of would ever do that.

13 Q. And why is that?

14 A. Because it's -- one, 'cause it  
15 doesn't work; but, two, because it's harmful to  
16 people who undergo it.

17 Q. Okay. Is genital presentation at  
18 birth used as a proxy for determining the sex  
19 to be marked on a birth certificate?

20 A. Yes.

21 Q. Why is it important to your clients  
22 or patients, for them to have identity  
23 documents that affirm their gender?

24 A. For a couple of reasons. One, if  
25 people present identity documents that are not

1       congruent with their presentation, they're  
2       vulnerable to interpersonal violence,  
3       harassment, denial of services, and all those  
4       things could make their dysphoria worse. It's  
5       also the case that because of prior bad  
6       experiences using incongruent identity  
7       documents, people sometimes just don't do those  
8       things. They stay in a bad job that they don't  
9       like because it's too scary to try to apply for  
10      a better job, they don't go back to school,  
11      they don't register to vote, they don't request  
12      services that they might be entitled to, so  
13      it's -- there's a social withdrawal element.  
14      And then, also, there's sort of a protective  
15      effect in that if they are in a situation where  
16      their gender presentation is challenged, like,  
17      hey, you don't belong in this room, this is the  
18      women's restroom and they could produce  
19      identification that says female, that's saved a  
20      few of my patients from some really bad  
21      situations.

22           Q.     Is it important that, in your  
23       experience, for your patients to have -- your  
24       transgender patients to have identity documents  
25       that consistently mark their sex or gender

1           across all documents?

2                   MR. BLAKE: Objection. Vague.

3                   THE WITNESS: Yes. Also for a  
4           couple of reasons. One, if people have -- or  
5           in different situations, different identity  
6           documents are requested. So if you're using a  
7           credit card at a store, they might ask for your  
8           driver's license or passport to verify your  
9           identity. In some places, you need to have  
10          your birth certificate to verify your identity.  
11          So if people don't have all of their identity  
12          documents correct, then it doesn't limit them  
13          as much as if none of their identity documents  
14          were correct, but it does limit them.

15                  But then in addition, when people  
16          have non-matching documents, that can expose  
17          them to extra scrutiny. Like, for example, a  
18          for a while, the Social Security Administration  
19          was if people's gender identity in their system  
20          didn't match the form that was sent in by their  
21          new employer, they sent a letter to the  
22          employer saying there was a mismatch outing my  
23          patients as trans to their employers who may  
24          not have known that.

25                  It's also, if somebody's trying to

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1       get security clearance or something like that,  
2       having identity documents that don't match is a  
3       big red flag.

4           Q.     Okay. So let's refer back to  
5       Defendants' Exhibit 18, Dr. Van Meter's July 1  
6       report. Let me know when you have that in  
7       front of you.

8           A.     Okay. I have it.

9           Q.     Okay. Can we turn to Page 5 and  
10      look at, for example, Paragraph 31. Let me  
11      know when you're there.

12       A.     I'm there.

13       Q.     I think there's five sentences in  
14      this paragraph. Could you read the last one  
15      for me?

16       A.     Ray's Ohio birth certificate, if it  
17      includes an entry of male, accurately reflects  
18      Ray's sex.

19       Q.     What did you understand that  
20      sentence to mean?

21       A.     That Dr. Van Meter, in the case of  
22      a transgender woman whose sex I think is  
23      female, agrees with Ohio's policy of keeping it  
24      as male, that Dr. Van Meter doesn't think it  
25      should be changed and doesn't think that my

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1 understanding of sex and the understanding of  
2 the medical community that treats transgender  
3 patients understanding of sex is correct.

4 MS. INGELHART: Okay. Thank you.  
5 I don't think we have any further questions.

6 EXAMINATION OF RYAN GORTON, M.D.

7 BY MR. BLAKE:

8 Q. Is it your testimony that the  
9 DSM-IV misidentified transgender individuals?

10 A. I think the DSM-IV allowed  
11 clinicians to misidentify people as transgender  
12 that probably weren't and wouldn't currently be  
13 diagnosed with gender dysphoria.

14 Q. Do you have any basis or idea of  
15 how many people were misidentified as  
16 transgender using the criteria in the DSM-IV?

17 A. Enough that Ken saw it in the kids  
18 who were being referred to him at CAMH. I -- I  
19 can't tell you a study of that, but there's not  
20 one that I know of.

21 Q. So that's just your guess?

22 A. I know that it happened because  
23 I've talked to a pediatric psychologist who  
24 said, gee, this happened and happened enough  
25 that we wanted to tighten up the diagnosis, and

1       it was tightened up. And it's appropriate. I  
2       mean, you shouldn't diagnose a kid with gender  
3       dysphoria who doesn't identify differently than  
4       their sex as assigned at birth.

5           Q.     But other than that statement about  
6       it happened and it happened enough times, you  
7       don't have any more specifics about kids who  
8       were misidentified under the DSM-IV?

9           A.     Statistics, no.

10          Q.     And do you have any statistics or  
11       studies or any information related to the  
12       misidentification of transgendered individuals  
13       of the DSM-IV criteria affecting the rates of  
14       desistance?

15          A.     Again, this is a conversation with  
16       a colleague at a conference who said he  
17       observed this.

18          Q.     So you don't have any scientific or  
19       medical basis that you could point to that says  
20       gender nonconforming individuals were  
21       misidentified and that has affected the rates  
22       of desistance over the last few years?

23          A.     Can I point to a study in the  
24       literature, no, but, I mean, you talk to your  
25       colleagues.

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1 Q. All right.

2 MR. BLAKE: No further questions.

3 MS. INGELHART: Cool. We'd like to  
4 reserve right to review and sign.

5 (Recess taken.)

6 (The deposition was concluded at  
7 4:50 p.m.)

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Page 213

1 Whereupon, counsel was requested to give  
2 instruction regarding the witness's review of  
3 the transcript pursuant to the Civil Rules.

4

5

SIGNATURE :

6

7

Transcript review was requested pursuant to the applicable Rules of Civil Procedure.

8

9

TRANSCRIPT DELIVERY:

10

11

Counsel was requested to give instruction regarding delivery date of transcript.

12

Mr. Blake original regular.

13

Ms. Ingelhart copy regular.

14

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**REPORTER'S CERTIFICATE**

The State of Ohio, )

SS :

County of Fairfield. )

I, Kimberly A. Kaz, RPR, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, RYAN GORTON, M.D., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

Page 215

I do further certify that I am not a relative, counsel or attorney for either party, or otherwise interested in the event of this action.

5                           IN WITNESS WHEREOF, I have hereunto  
6 set my hand and affixed my seal of office at  
7 Cleveland, Ohio, on this 30th day of  
8 October, 2019.

9

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K R

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Kimberly A. Kaz, RPR, Notary Public  
within and for the State of Ohio

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My commission expires March 31, 2023.

Page 216

Veritext Legal Solutions  
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Suite 1820  
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Phone: 216-523-1313

October 30, 2019

To: Ms. Kara N. Ingelhart

Case Name: Ray, Stacie, et al. v. Acton, Amy, et al.

Veritext Reference Number: 3493806

Witness: Ryan Gorton , M.D. Deposition Date: 10/8/2019

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the production address shown above, or email to production-  
midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,

## Production Department

NO NOTARY REQUIRED IN CA

Page 217

1 DEPOSITION REVIEW  
2 CERTIFICATION OF WITNESS

3 ASSIGNMENT REFERENCE NO: 3493806

4 CASE NAME: Ray, Stacie, et al. v. Acton, Amy, et al.

5 DATE OF DEPOSITION: 10/8/2019

6 WITNESS' NAME: Ryan Gorton, M.D.

7 In accordance with the Rules of Civil  
8 Procedure, I have read the entire transcript of  
my testimony or it has been read to me.

9 I have made no changes to the testimony  
as transcribed by the court reporter.

10 Date Ryan Gorton, M.D.

11 Sworn to and subscribed before me, a  
Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:

12 They have read the transcript;  
13 They signed the foregoing Sworn  
Statement; and  
14 Their execution of this Statement is of  
their free act and deed.

15 I have affixed my name and official seal  
16 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
17

18 Notary Public

19 Commission Expiration Date

1 DEPOSITION REVIEW  
2 CERTIFICATION OF WITNESS

3 ASSIGNMENT REFERENCE NO: 3493806

4 CASE NAME: Ray, Stacie, et al. v. Acton, Amy, et al.

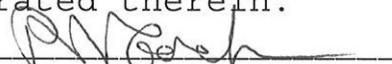
5 DATE OF DEPOSITION: 10/8/2019

6 WITNESS' NAME: Ryan Gorton, M.D.

7 In accordance with the Rules of Civil  
8 Procedure, I have read the entire transcript of  
my testimony or it has been read to me.

9 I have listed my changes on the attached  
10 Errata Sheet, listing page and line numbers as  
well as the reason(s) for the change(s).

11 I request that these changes be entered  
as part of the record of my testimony.

12 I have executed the Errata Sheet, as well  
13 as this Certificate, and request and authorize  
that both be appended to the transcript of my  
testimony and be incorporated therein.  


14 Date

Ryan Gorton, M.D.

15 Sworn to and subscribed before me, a  
16 Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:

17 They have read the transcript;

18 They have listed all of their corrections  
in the appended Errata Sheet;

19 They signed the foregoing Sworn  
Statement; and

20 Their execution of this Statement is of  
their free act and deed.

21 I have affixed my name and official seal  
22 this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  


23 Notary Public

24 see attached CA Jurat

25 Commission Expiration Date

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GOVERNMENT CODE § 8202

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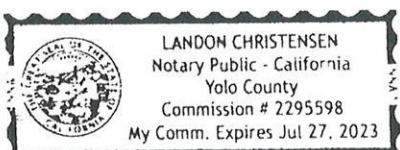
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State of California

County of Yolo



Place Notary Seal and/or Stamp Above

Subscribed and sworn to (or affirmed) before me

on this 23 day of November, 2019,  
by Date Month Year

(1) Ryan Gorton

(and (2) \_\_\_\_\_),  
*Name(s) of Signer(s)*

proved to me on the basis of satisfactory evidence to  
be the person(s) who appeared before me.

Signature

A handwritten signature in black ink, appearing to read "Ryan Gorton".

*Signature of Notary Public*

**OPTIONAL**

*Completing this information can deter alteration of the document or  
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**Description of Attached Document**

Title or Type of Document: Deposition Review Certification of Witness

Document Date: 11/21/19 Number of Pages: 1

Signer(s) Other Than Named Above: \_\_\_\_\_

Page 219

1 ERRATA SHEET

2 VERITEXT LEGAL SOLUTIONS MIDWEST

3 ASSIGNMENT NO: 3493806

4 PAGE/LINE(S) / CHANGE /REASON

5 P20 Line 6 / "weren't women" should be "weren't cisgender women" /missing word/clarification

6 P32 Line 22 / "Graham" should be "Grimm" / spelling

7 P44 Line 5 / "going a systemic review" should be "doing a systematic review" / wrong word

8 P44 Line 6 / "systemic" should be "systematic" / wrong word

9 P44 Line 20 / "systemic" should be "systematic" / wrong word

10 P45 Line 9 / "systemic" should be "systematic" / wrong word

11 P46 Line 25 / "systemic" should be "systematic" / wrong word

12 P56 Line 16 / the word "case" should appear after Alabama / missing noun/clarification

13 P63 Line 25 / "moved onto the Y chromosome," should read " moved onto the X chromosome." /wrong word

14 P70 Line 5 / "heed" should be "read" / wrong word

15 P92 Line 11 / "preadolescence" should be "preadolescent" / wrong word

16 P95 Line 4 / "renal" should be "adrenal" / wrong word

17 P99 Line 18 / "the between study" should be "the twin study" / wrong word

18 P102 Line 14 / "present" should be "presence" / wrong word

19 SEE ATTACHED FOR ADDITIONAL CORRECTIONS

20 11/23/19

Date

Ryan Gorton, M.D.

SUBSCRIBED AND SWORN TO BEFORE ME THIS

21 DAY OF

, 20

22 Notary Public

23 see attached GA Jurat

24 Commission Expiration Date

ERRATA SHEET ADDITIONAL PAGE

ASSIGNMENT NO. 3493806 (GORTON DEPOSITION)

PAGE/ LINE /	CHANGE	/REASON
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P103 Line 6 / “vaginal plasty” should be “vaginoplasty” / spelling

P123 Lines 2-3 / “a typical” should be “atypical” / spelling

P124 Line 7 / “incidents” should be “incidence” / spelling

P141 Line 21 / “than” should be “that / wrong word

P157 Line 12 / “as” should be “at” / wrong word

P162 Line 5 / “three percent” should be “three percent higher” / missing word/clarification

P174 Line 3 / “document” should be “documents” / plural

P175 Line 5 / “National Center of Transgender Equality” should be “National Center for Transgender Equality” / wrong word

P178 Line 9 / “a birth” should be “at birth” / wrong word

P189 Line 3 / “psychiatric should be “psychotic” / wrong word

P195 Line 19 / “Joe” should be “Jo” / spelling

P197 Line 18 / “didn’t help” should be “did help” / wrong word

**CALIFORNIA JURAT WITH AFFIANT STATEMENT****GOVERNMENT CODE § 8202**

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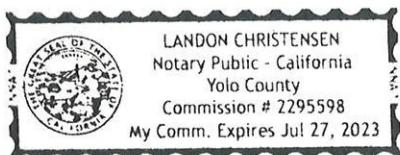
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County of Yolo

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Subscribed and sworn to (or affirmed) before me

on this 23 day of November, 2019,  
 by \_\_\_\_\_ Date \_\_\_\_\_ Month \_\_\_\_\_ Year \_\_\_\_\_

(1) Ryan Gorton

(and (2) \_\_\_\_\_),  
 Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to  
 be the person(s) who appeared before me.

Signature


 A handwritten signature of "Ryan Gorton" written over a stylized "J" shape.

Signature of Notary Public

**OPTIONAL**

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**Description of Attached Document**

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[&amp; - 99]

Page 1

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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